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**THE STATE, LAW AND WORKERS' PARTICIPATION POLICIES IN  
ZAMBIA, 1969-1989**

**A study of the origins and development of law and  
participation policy in a developing country**

**BY**

**ERNEST MUKETOI BEELE**

**Thesis submitted for the Degree of Doctor of  
Philosophy (PhD)**

**at the**

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- C.A.Jere v. ZAMHORT [1981-1983] ZICR 1
- Claudius Sakala and Others v. Zambia Electricity Supply Corporation [1979-1981] ZICR 159
- Ethel Sepiso Nyambe v. Zambia State Insurance Corporation [1981-1983] ZICR 171
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- Maybin Nkwanisha v. National Agricultural Marketing Board [1979-1981] ZICR 65
- Maynard Roy Chabala v. Zambia Clay Industries Limited [1979-1981] ZICR 125
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- Mporokoso and Himoonde v. Zambia Cattle Financing Company Limited [1981-1983] ZICR 129
- Mukuka and Others v. Zambia National Provident Fund [1981-1983] ZICR 17
- Mumba v. Zambia Fisheries and Fish Marketing Company Limited

**[1979] 2AALR 41**

**National Union of Building, Engineering and General Workers  
(Mrs. Hlabangana) v. Hoechst (Zambia) Limited [1979-1981] ZICR  
102, 103**

**N.U.T.A.W.(D.Ndhovu) v. Commercial Motors Limited [1981-1983]  
ZICR 11**

**Parke v. Daily News Ltd [1962] Ch. 927**

**Paul Gwese v. Roan Consolidated Mines Limited (Ndola Copper  
Refinery) [1975-1978] ZICR 57**

**Tresphous Kuseya v. Zambia Engineering and Contracting Company  
Limited [1979-1981] ZIRC**

**Works Council R.C.M. Ltd Luanshya Division v. Management RCM  
(Luanshya Division) [Government Gazette no. 411 of 1977]**

**Zambia National Provident Fund Board v. Attorney General and  
Others [1983] ZLR 140**

## TABLE OF STATUTES AND STATUTORY INSTRUMENTS

[Note: the legislation appearing below has been referred by name in the text. There is no assumption that it has been discussed in any detail in the thesis].

1890	Partnership Act, 1890
1893	Sale of Goods Act, 1893
1908	(Companies Consolidation) Act, 1908
1911	Northern Rhodesia Order-in- Council 1911
1921	Proclamation No. 18 (Companies Ordinance 1921)
1949	Industrial Conciliation Ordinance 1949
1949	Trade Unions and Trade Disputes Ordinance 1949
1964	Trade Unions and Trade Disputes (Amendment) Act 1964
1964	Workmen's Compensation Act, 1964
1965	Employment Act, 1965
1965	Apprenticeship Act, 1965
1965	High Court Act, 1965
1966	Factories Act, 1966
1966	National Provident Fund Act, 1966
1970	Villages Registration Act, 1970
1971	Industrial Relations Act, 1971
1973	Constitution of Zambia, 1973
1974	Statutory Instrument Nos.29 and 206 1974
1975	Employment (Special) Provisions Act, 1975
1976	Statutory Instrument No.76 1976
1977	Industrial Development Act, 1977



1981 Local Government Administration Act, 1980  
1981 Industrial Relations Act (draft) 1981  
1981 Industrial Democracy Act (draft 1981)  
1982 Employment Act (United Kingdom) 1982  
1983 Industrial Relations (Amendment) Act, 1983  
1985 Companies Act, (United Kingdom) 1985  
1986 Investment Act, 1986  
1987 Self-Management Enterprises Act (draft) 1987,  
1988 Industrial Relations Act (draft) 1988  
1988 Self-Management Enterprises Act, 1988  
1989 Statutory Instruments Nos.24 and 25 1989  
1990 Constitution of Zambia (Amendment) Act, 1990  
1990 Industrial Relations Act, 1990.

## TABLE OF ABBREVIATIONS AND ACRONYMS

AALR	ALL Africa Law Reports
BSA	British South Africa Chartered Company
CH	Chancery (United Kingdom)
ILO	International Labour Organisation
INDECO	Industrial Development Corporation Limited
IPD	Industrial Participatory Democracy (Department)
IRA	Industrial Relations Act, 1971 (Zambia)
NCIWU	National Commercial and Industrial Workers' Union
NUTAW	National Union of Transport and Allied Workers
RCM	Roan Consolidated Mines Ltd
ROP	Refined Oil Products (1975)Ltd
SME	Self- Management Enterprises
UNDP	United Nations Development Programme
UNIP	United National Independence Party
ZCTU	Zambia Congress of Trade Unions
ZCF	Zambia Commercial Farmers' Bureau
ZFE	Zambia Federation of Employers
ZICR	Zambia Industrial Case Reports
ZIMCO	Zambia Industrial and Mining Corporation
ZINCOM	Zambia Industry and Commercial Association
ZIS	Zambia Information Servises
ZLR	Zambia Law Reports

## ABSTRACT

### THE STATE, LAW AND WORKERS' PARTICIPATION POLICIES IN ZAMBIA, 1969-1989

Ernest Muketoi Beele

This thesis is a study of the origins and development of law and workers' participation policies in Zambia from their inception in 1969 to 1989. The research was focussed at three levels of investigation: why was workers' participation introduced; what factors have determined its development; and whether the results suggest that state involvement, and the use of law in particular, has made a useful contribution to these industrial relations policies.

The value of the work is threefold. First, it makes a modest but significant contribution to the understanding of law and industrial relations in post-independence Zambia. Second, it disputes and, in large measure, seeks to contradict earlier explanations thought to have determined the origins and development of participation policies in the country. Third, it provides original insights into the 1971 and 1988 workers' participation legislation.

The methods of investigation have been largely historical and comparative. It analysed primary and secondary materials, supplemented by discussion interviews. Theoretical guidance was drawn from critical studies of corporations, labour law and industrial relations.

The study reveals that the origins of workers' participation in Zambia is connected to the political objective in the 1960s of assuring the participation of Zambians in the ownership and management of the economy. Consequently, it argues that the development of these policies is best understood in the context of this origin as well as of the structures and institutions upon which they were erected in the 1970s.

Turning to the assessment, it found that very little industrial relations effects have been demonstrated. This was partly a result of three interlocking factors. First, weak and inconsistent laws. Second, the failure to develop the widest possible consensus on participation policies. Third, the absence of economic and political conditions under which the confidence of managers and workers could be won towards state policies.



## CHAPTER ONE

### INTRODUCTION

This study examines development of workers' participation policies in Zambia over an extended period of twenty years. The object of this introductory chapter is to define the scope of the study. We shall also explain why the study has been undertaken and provide information on the methods used to collect materials for writing it. The chapter is organised as follows. Section 1 gives a statement of the problems in the study. Section 2 outlines the main aims and objectives of the dissertation. Section 3 explains the framework of approach and justification of the study. Section 4 defines the main concepts of state, law and workers' participation on which the study centres. The research methods adopted and their limitations are presented in section 5. Finally, section 6 summarises the plan and logic of the study.

#### 1. STATEMENT OF THE PROBLEMS FOR INVESTIGATION

The Zambian Industrial Relations Act, 1971 introduced in that country the concept of workers' participation in management decisions. Initially announced by President Kaunda in December 1969 as a new industrial relations policy, workers' participation came to occupy a central place in Zambia's post-independence labour policies. The creation of the Department of Industrial Participatory Democracy(IPD) in 1975; the commissioning of the International Labour Organisation(ILO) to



advise on workers' participation in 1982; the decision to put trade union leaders on boards of directors of public companies in 1983; and the enactment of a Self-Management Enterprises Act in 1988 are all different aspects which illustrate the extent to which the Zambian Government has been wedded to the ideas of industrial democracy and greater workers' participation in management decisions. Precisely why the Zambian Government introduced workers' participation in industry; the factors that have encouraged continuation of the policy; and the practical results realised during this period are the major areas of investigation in this study.

## 2. OBJECTIVES OF THE STUDY

The main aim of this dissertation is to study the legal aspects of workers' participation policies in Zambia. Our objectives are twofold. First, to describe and analyse how the Zambian state developed policies and laws respecting workers' participation in management decisions. Second, to investigate, analyse and assess the significance of these measures in the context of that country's post-independence policies. Thus, this study involves detailed analysis at three levels:-

- a) An investigation into the origins and objectives of workers' participation policies. Why was a policy of workers' participation introduced, and what was the expectation with this particular industrial relations policy?

- b) An examination and evaluation of workers' participation legislation in the context of structural and institutional frameworks introduced by Zambia's post-independence policies. By structural and institutional frameworks we mean economic, political, industrial relations, and legal contexts of the country in which the attempt was made to introduce and enforce the law of workers' participation in management decisions. Thus, we are interested specifically in studying the Zambian participation policy in the context of the foundations upon which it was erected.
- c) An assessment of the contribution of workers' participation to the development of industrial relations in Zambia given its origins, form of legislation and the organisation of institutions through which the policy was promoted.

### 3. FRAMEWORK OF APPROACH AND JUSTIFICATION OF THE STUDY

Our focus in this study is on the Zambian policy of workers' participation, better known there as Industrial Participatory Democracy. While there has been a great deal of interest in this policy over the last fifteen years or so(1), we know relatively little about its origins and possibly understand even less the factors that have sustained the policy for the last two decades.

(One reason for this has to be attributed to the nature of

interest that has been shown in workers' participation policies in that country. In Zambia, workers' participation typically constitute less of a topic of study in its own right than a factor causing or reflecting particular 'problems' of the Zambian Government's management of the economy and industrial policies.

Thus, John Mulwila, in Parastatal Companies and the Law in Zambia(2), provides a chapter on workers' participation law. The purpose of including the subject is to substantiate the thesis that there has existed in Zambia since nationalisation policies in the 1960s a variety of legal and extra-legal institutions that have operated to blur company law as was understood and inherited from Britain. There is no focus on workers' participation as such. A similar perspective of workers' participation law as a 'problem' in the development of Zambian corporate jurisprudence is given by Remmy Mushota in Control of Mining Companies Under Zambian Company And Mining Law(3). The difference between the two is that the former discusses the implications of participation laws across the spectrum of Zambian state companies whilst the latter is more specific to the mining sector. A management study by George Simwinga also includes a description of workers' participation law and policy in Zambia, but again only for the purpose of isolating these as one factor impeding 'corporate autonomy' in the management of the Zambian state companies(4).



Slightly different, but still on similar lines, is the treatment of Zambian workers' participation law and policy by Shimaponda in The Evolution of the Zambian Industrial Relations System(5). In this study, Zambian workers' participation laws and policies are described for the purpose of attributing these as one aspect of Zambian industrial relations policies derived through the influence of ILO. Evance Kalula, on the other hand, has described workers' participation laws and policies in Zambia as one more aspect of state-trade union 'incorporation' policies in the country-(6).

It can be seen from these studies that the subject of workers' participation has been approached in a rather strange way. Specifically, none of the different major studies of law, management and industrial relations outlined above has approached the Zambian workers' participation policy as an object of study in itself. Instead, the subject has been given tangential treatment(7). This in itself does not mean that these studies have not contributed to our understanding of the development of workers' participation policy in Zambia. By recording the fact of existence of workers' participation in the Zambian industrial relations system, these studies have helped to alert us to the point that workers' participation is one aspect of Zambian post-independence developments which has become almost impossible to ignore in any examination of state, law and industrial policies in the country. Nonethe-

less, it is fair to imply from the manner of treatment explained that the subject has been accorded insufficient attention. Workers' participation in Zambia has been institutionalized on the statute book, in workplace institutions and in structures of Government. From this perspective, it must be surprising that an area of policy so much in the public domain should have been until now approached only in a tangential manner.

It would be misleading to create the impression that there have been no Zambian studies that have looked directly at the policy of workers' participation. The main point, as we shall indicate below, is that even these studies have been far less than systematic inquiries into workers' participation policies. Either they have been too limited in time frame or too specific in scope to have constituted a sustained inquiry into a policy that has defined, more than any, state involvement in industrial relations in Zambia.

The earlier study of works councils by Charles Schmidt was an assessment of attitudes of managers, trade unionists and workers to workers' participation "After The First Year of Implementation"(8). Schmidt, in fact, focussed on Zambian workers' participation law and policy as if this began in 1976. He writes thus,

Although works councils were established as a national policy and with high priorities in 1976, intervening



events and circumstances (especially over the past year) may have resulted in a policy and administrative de-emphasis of the Works Council national programme. If the preceding is the case, these survey results are quite likely to remain relatively constant until the political and economic circumstances have stabilised. Conversely, if a forward movement has been achieved in the intervening 20 month period, the 20-month data lag must be more seriously considered by readers of this study(9).

We know that workers' participation was established as a national industrial relations policy much earlier than 1976 and under economic and political circumstances which were far from being stable(10). But such are the consequences of cross-sectional studies in an area which is otherwise dynamic and historically more composite than the author assumes. Closer to Schmidt was the study into the implementation of workers' participation in Zambia by Fincham and Zulu in 1979(11). Though the latter seemed more historical, it also portrayed a simplistic class conspiracy style of analysis. Its perspectives concentrated on what the writers call "a critical analysis of the concept of workers' participation"(12). They attributed the origins of workers' participation in Zambia to attempts by the state to 'buy off' at a cheap price a radical upsurge in working class militancy in the 1960s. In this mould, the study of Finchman and Zulu, like that of Schmidt, fails to explain more fully the ongoing dynamics of workers'

participation regardless of the original aims of the policy. It is hardly surprising that some three years after these studies were published, Manfred Weiss, invited by the Zambian Government to advise on the functioning of the works councils, dismissed them as simply "outdated"(13).

Yet, the other direct studies of Zambian workers' participation law and policy commissioned either by the Zambian Government(14) or the Zambia Congress of Trade Unions(15) tended also to be devoid of the broader political and economic context. They too lacked historical perspectives. By their nature the commissioned studies were technically biased. They did not question the premises of state policies but sought to advise on how best to proceed however faulty or otherwise, those premises and direction of Government policies. Manfred Weiss wrote, for instance,

It would, however, seem that no final decision has yet been made in Zambia on the basic structure to be given to the national industrial relations system in the future. Discussions are indeed still going on concerning the role to be played and the relationship to be established between the various decision-making processes enumerated above in the years to come. Such decisions are obviously of the greatest political importance and can therefore only be taken by the Zambians themselves. The expert has consequently refrained from expressing any opinion on these basic problems and has limited himself, whenever



such problems were involved, to indicating the various alternatives which present themselves as regards the future of works councils in Zambia(16).

This restraint to question policy and its direction characteristic of commissioned work finds its counterpart in studies of workers' participation initiated by Management Consultants(17). Though also full of useful insights into the existing situation, these studies emphasize ways and means of making the best of circumstances. For example, counselling the adoption of 'appropriate attitudes', as though the major barriers to greater workers' participation were in the minds of industrial relations practitioners.

Thus far, we have remarked at the restricted approaches which have characterised studies of workers' participation in Zambia. The lack of direct focus on workers' participation policy characteristic of tangential studies has been highlighted. We have also observed that neither snap-shot surveys nor commissioned studies have been equipped to assess in detail the complexities that has been posited by state, law and workers' participation policies in Zambia.

Those remarks form the background against which this study was undertaken. They indicate at once both our justification for the study and its underlying approach. Specifically, the origins of this dissertation are in the view that, if workers' participation policies are as important as



law and policy suggests, they deserve more full analysis in their own right. Since 1969 a considerable amount of investment in time, human and financial resources has gone into the policy of workers' participation in Zambia. Between 1986 and 1989 alone the total budgeted costs for running IPD was Two Million Seven Hundred and Fifty Three Thousand Kwacha (K2,753, 000)(18). But much more was spent in the 1970s and early 80s with national and international seminars(19). We think that a programme of such magnitude and which has consumed so much of private and public resources over an extended time requires better examination than it has received up until now.

Therefore, we seek in this study to contribute to a better understanding of how workers' participation policies have developed in the country since 1969. We believe a longitudinal study offers a better chance of examining carefully and systematically the development and contribution of Industrial Participatory Democracy in Zambia. For the same reasons, a broad view which interprets legal developments within the dynamic framework of institutions and structures of post-independence Zambia is preferred.

The origins of workers' participation in Zambia is debated. The political, economic, industrial relations and legal contexts in which the Zambian participation policy was introduced are described. The way these came to affect subsequent developments in the law are assessed and analysed

up to 1989. In order always to mark out distinctly the peculiarities of Zambian developments we shall occasionally contrast these with international experience, especially as it was offered by countries of Western Europe and Scandinavia in the 1970s. But we should make it clear that we shall be looking at foreign materials in this thesis only for the purposes of seeking to understand better the Zambian developments.

The argument of this thesis is that in order to understand the confusion, uncertainties and contradictions that have marked progress of the industrial relations policy of workers' participation in Zambia, regard should be had to the ambiguities surrounding its introduction and the foundations upon which it was erected. The structures and institutions engendered by post-independence development policies had no chance to cure the original ambiguities of the policy. If anything, they compounded these, resulting in a serious drift of law and policy to which the study testifies.

#### 4. DEFINITION OF MAIN CONCEPTS IN THE STUDY

The concepts of state, law and workers' participation on which our study focuses require clarification in order to signal the meaning which we assign to them in this study.

##### 4.1 THE CONCEPT OF STATE

There are three distinguishable dimensions associated with the concept of state when discussed in the context of national



policies. First, the concept of state may be used to refer to specificity of territorial entity, as recognised, for instance, under rules of international law. This is the physical dimension of the concept of state designating geographical and jurisdictional location of a country and its inhabitants: for instance, Zambia as a state in Central and Southern Africa. The second use of the concept of state takes on a more metaphysical dimension, in the sense that we can only conceptualize the reality of the state. In this form, state is the manifestation of historically organised social and political power, reflected in the existence and continuity of laws and allied institutions, as well as the apparatuses of civil and armed forces in the state territorially defined. Third, and finally, the concept of state may connote the social body of individuals who at any given time hold and exercise political power and authority in society. The latter is often the 'Government' dimension of the concept of state which emphasises the representative character through which state power and authority is actually exercised(20).

In this study we employ the concept of state loosely to encompass, at different times and in different contexts, the three possible dimensions identified. For, in employing the concept of state we are concerned with the identification of the ways in which those with political power in the territory of Zambia have acted over an extended period of time to define and influence the direction of industrial policies of workers'

participation in management decisions. For this purpose, there should be no difficulty when we use the concept of state in order to identify Zambia as a constituted geographical and jurisdictional territory. Some difficulties do occur however in distinguishing state as the amorphous and abstract entity aggregating power in society, and when the word should be used to refer to a collection of individuals whose preferences, actions and decisions are the subject of discussion. This is not a new problem to understanding the nature of the state. It is the very phenomenon at the centre of discussions surrounding 'relative autonomy of the state' and the extent to which it is a captive of particular social classes at any given time in history(21). In order to separate and identify the collective of Zambian decision makers at particular points in time, the term 'Government' will sometimes be preferred in this study.

#### 4.2 THE CONCEPT OF LAW

The concept of law is employed to designate a definitive description of rules of conduct designed to influence and govern human behaviour. New laws do not begin on empty slates in relation to individuals and organisations they propose to regulate. The consequent need for these to be sufficiently specific in their prescriptions are well recognised(22). That is to say, if laws have to be implemented and sanctions for breach applied, the makers of law must be sufficiently clear in the allocation of rights and duties(23). The Zambian



state's creation of rules respecting workers' participation in management decisions will be analysed in the light of this criterion. Though the question of circumstances under which states can dictate rules of behaviour may prove to be more important to our understanding of law in this study than the traditional analysis of rights, duties and sanctions.

#### 4.3 WORKERS' PARTICIPATION POLICIES

Policies are programmes of individual, institutional or national character which have the aim of shaping and influencing courses of action regarding that individual, institution, nation or sections of it(24). Therefore, when we speak about Zambian workers' participation policies we refer to programmes set out by the Zambian state to shape and influence conduct in industrial affairs in order to achieve the desired outcome of workers' participation in management decisions. Consequently, what is to be understood as workers' participation is, in this respect, the key concept.

There is no standard definition to describe workers' participation in management decisions. Workers' participation has meant different things to different people, and meanings have varied with times and places(25). As used in this study, workers' participation denotes the ability of workers [or labour] to have a say and influence on decision making in companies. Inherent in the concept of workers' participation is the notion of power on part of employees to take on some or

all prerogatives in running business companies which have historically been the prerogatives of employers, managers [or capital]. The extent to which workers can take on or participate in management decisions depend on many factors, but it is thought that crucial to the process are the forms of arrangements made for employees to participate in management decisions.

Thus, the history of state intervention in participation policies is itself linked up with struggles of workers seeking a favourable framework of social and economic treatment in the workplace(26). Consequently, the forms of arrangements made to redress and improve on workers demands have also influenced the content of workers' participation in management decisions.

In places where state authorities encouraged voluntary collective bargaining arrangements, either by legislation or otherwise, as the main framework through which to improve social and economic conditions of workers, workers' participation has been understood more loosely either as embracing collective bargaining itself or the other extra-collective bargaining arrangements made for employees to share in decision activities of companies. For example, joint consultation in works committees, profit sharing, share ownership, cooperatives and quality circles. The variety of institutions and structures through which workers have been allowed to associate in activities of companies have, to some extent, brought a great deal of imprecision to what is



entailed by workers' participation in management decisions. This imprecision as to what should constitute workers' participation is more evident in the capitalist countries of the common law heritage(27).

On the other hand, in Western Europe and Scandinavia, where states have had traditions of legislation as a counterpart of collective bargaining to improve social and economic conditions of workers, the concept of workers' participation is much more established. Workers' participation is understood in more formal terms of arrangements sanctioned by the state by which employees are allowed to participate, alone or with employers, in decision activities of companies. In this more formal terms, George Vorbrugg has defined workers' participation as "the right of employees and/ or their representatives or labour organisations to influence plant, shop and company policy beyond the mere negotiation of individual employment contracts or old fashioned collective bargaining agreements"(28). Nikolinakos, following Gorkum, similarly defines workers' participation as the "rights and powers of employees or their representatives which enable them to exert influence on the determination, implementation, supervision and control of company policy"(29).

We shall review in more detail the different approaches to participation laws in Chapter 5. For the moment, it is sufficient to emphasise that the role of the state and the formalities associated with its intervention in participation

policies is a distinguishing feature of the definition of worker's participation and Industrial Democracy in Western Europe and Scandinavia. The insistence in Zambia to use law as the instrument by which to promote greater workers' participation, as we shall see in Chapter 3, pushes the country much closer to Western Europe and Scandinavian approaches to industrial democracy and workers' participation. But the reasons why such policies are adopted, the ways and extent to which workers have been allowed to participate in decisions of industry, and the consequences of state involvement itself, are factors far less subject to generalisation.

## 5. THE RESEARCH METHODOLOGY

Research methods are chosen on the basis that they allow the research question to be answered. In our study two research methods have been adopted: the historical and comparative research methods.

An historical approach to research concerns helping to understand current problems through the examination of what happened in the past. We use this approach to understand how it came that Zambia adopted workers' participation policies; to appreciate the context of structures and institutions in which workers' participation was intended to operate; and to observe the dynamic processes shaping the development of participation law and policy during the period under study.



Though the history of workers participation dates back to the previous century, it was after the Second World War, and particularly during the 1960s and 70s that workers' participation in management decisions emerged as an important issue in law reforms(30). This was the precise time that independent Zambia was evolving her own industrial policies(31). The comparative approach thus enables us to bring into perspective the peculiarities of Zambian developments in relation to what was happening in other countries at around the same time. We have used this method of research in order to discover experience of other countries who have attempted to give effect to participation policies through the use of law. This research method has been of great value indeed in organising the results reported, though, as we have stressed, very little is said in the thesis about the experience of other countries with industrial democracy and workers' participation.

The research carried out involved two major research techniques: Analysis of primary and secondary materials and Discussion Interviews.

#### A) Analysis of Primary and Secondary Materials

This was by far the main technique of research used in the study. It was justified by both the researcher's previous experience in the field of study and the specific levels of research and rigour demanded by the research question(32).

Primary materials came in the form of Government reports; Acts of Parliament and Draft Bills; Parliamentary Debates; Court Case Reports; Speeches and Policy Documents. These were largely Zambian materials. Secondary materials came from books; journal articles; research reports; symposia, seminar and conference papers; and occasionally newspaper reports and analysis.

#### B) Discussion Interviews

Discussion interviews were conducted at the fieldwork stage in December 1989. But the scope and intensity with which we conducted these interviews was limited. This was for two reasons. First, the problems of time and financial resources-(33). Second, and mainly, we did not think that an extended programme of interviews would have helped significantly the perspectives of this study. The reason we conducted discussion interviews at all was to gain a more current general understanding of the processes at work in the development of law and participation policy in Zambia. The information obtained was thus used to supplement and collaborate the documentary evidence of the issues investigated. For this reason, we contacted only some of the individuals directly involved in the implementation of workers' participation policies in the country. At the same time semi-structured discussion interviews were preferred over the more formal administration of questionnaires(34).



Notes were taken either during discussion or as soon as it was possible thereafter to identify the sources of particular perspectives. The actual names of persons we interviewed have either been acknowledged or are cited where relevant in the study. For purposes of general indication, interviews were held with selected officials at the two Ministries of Labour, Cultural Services and Social Development and Commerce and Industry; Department of Industrial Participatory Democracy; Law Development Commission; and the Industrial Relations Court. In the trade union movement, information was obtained from representatives of the Zambia Congress of Trade Unions and National Union of Commercial and Industrial Workers. Because of the policy of One Industry, One Union followed in Zambia since the 1960s, the National Union of Commercial and Industrial Workers is a key representative of many of the industries whose workers are covered by participation policies(35).

Prior to 1988 there was only one law respecting workers' participation in Zambia contained in Part 7 of the Industrial Relations Act, 1971. There was no difference between public and private companies in the way the law was applied. But in order to gain a broader picture we visited and held interviews with works councillors/ managers in two state enterprises and two private sector companies. The state sector companies were Scaw Ltd (Foundry Engineering) and National Breweries Ltd (Manufacturer of opaque beer). The private sector companies

were Medwich Clothing Ltd (Clothing manufacturer) and Specialty Foods (Zambia) Ltd ( Confectionery Food Processing). These companies were chosen for being well established businesses, unionised, located in the central Copperbelt town of Kitwe where several unions are headquartered, including Zambia Congress of Trade Unions and National Union of Commercial and Industrial Workers, and for being companies with which the researcher has had no previous direct contact(36). These factors were thought relevant and sufficiently objective to obtaining the best possible information within the constraints of time and budget.

The fifth company at which we spent some time was Zambia Pork Products SME (Meat Processing). Together with Choma Milling SME, Zambia Pork is one of the pioneering companies to operate under the Self-Management Enterprises legislation of 1988. The discussions we conducted there helped to provide insights into a phenomenon which was relatively new in Zambia at the time of our research in 1989.

#### LIMITATIONS OF THE RESEARCH

This study has relied mostly on written historical materials as supplemented by discussion interviews. While we found these research techniques most appropriate to gathering the information we were looking for, we recognise that both of our research techniques are susceptible to bias, distortion and at times sheer absence of accuracy.



Edmund Seddon has observed that "history unfolds through a process of gradual and almost imperceptible change, in which many threads are interwoven in a manner which produces only dominant patterns"(37). From this view, it follows that only dominant patterns can actually be found in historical sources. That already indicates the limits of what could be gained by our main research methods. It should be added however that historical information is often documented for purposes different from what a researcher would want to use it. All these compound difficulties of handling and interpreting historical materials.

When it comes to the subject of workers' participation the same difficulties are duplicated by the controversial nature of workers' participation in management decisions. Workers' participation encompasses at once ideological, political, social and economic elements on which different views are held. Inevitably, what is recorded will normally reflect not only the views of those who organise production but also the balances of power in society. Where organisation of production and monopoly of social power were held predominantly by state institutions, as has been the case in Zambia for much of the period under study, the researcher is put in the most imponderable situations of dependence. We talked to the unions and ordinary workers and consulted whatever material was there written by non-state officials in order to obtain a balanced view of the Zambian developments. But the very absence of

comprehensive studies of many aspects of workers' participation in Zambia have to be borne in mind as a real limitation to how far we could go at clarifying such a complicated policy in this thesis.

## 6. PLAN AND LOGIC OF THE STUDY

Fundamental to following the development of workers' participation in Zambia is the appreciation of the reasons why a policy of workers' participation was introduced in the country at all; the objects that were to be achieved through this policy; and the role law was envisaged to play in the process. These are points on which several views are found. We therefore examine carefully these introductory aspects of Zambian policies in two separate chapters.

Chapter 2 introduces four main propositions supporting rather different positions as to the origins of workers' participation in Zambia: The Philosophy of Humanism; The political concept of Participatory Democracy; The idea of new role of labour in development; and the role of international influences. The Chapter also goes on to analyse in detail the social, economic and political context in the background of which workers' participation policies were introduced in independent Zambia.

Chapter 3 builds on the specificity of the Zambian historical context with an examination of both the purposes that were to be served by workers' participation and the role



envisaged to be played by law in that process of change. Presidential and ministerial statements made before and after the 1971 legislation are scrutinised to determine both stated objectives of workers' participation and the particular place of law. Conclusions will then be drawn regarding factors which lead to the adoption of workers' participation in Zambia.

With the foundations of workers' participation policies sketched out, Chapter 4 investigates specifically the context of institutions and structures in which Zambian workers' participation law and policy was intended to function in the 1970s. Political, economic, industrial relations and legal contexts are examined and assessed for their susceptibilities to notions of workers' participation in management decisions.

Chapter 5 focuses on the provisions of the 1971 workers' participation law. Beginning with a general survey of approaches to workers' participation laws, we proceed to outline the Zambian Government's own approach to participation legislation in 1971. We review in detail both procedural and substantive elements of the workers' participation legislation. The outcome of the legislation in relation to what were the stated objectives of workers' participation is finally assessed.

Chapter 6 is an account of the implementation of the 1971 workers' participation law itself. We look in particular at the circumstances surrounding the decision to bring the law into force in 1976; the reactions of unions, workers and



management to the law in practice; its interpretation by the Industrial Relations Court; and the Zambian state's own reactions to the adequacy and appropriateness of the law's framework, sanctions and remedies.

The Self-management legislation was enacted in 1988. Several other decisions had been taken by the Zambian Government in the intervening period since the mid-1970s to respond to challenges presented by the policy of workers' participation in management decisions. That general background; the nature and significance of Self-management legislation to the promotion of Zambian policies are presented and reviewed in Chapter 7. Chapter 8 reviews the main themes of the study and draws appropriate conclusions about the origins and development of workers' participation policy in Zambia up until 1989.

## FOOTNOTES TO CHAPTER ONE

- 1 Largely as a result of political commitment to this particular policy by the state in Zambia. See below.
- 2 Mulwila, John M., Parastatal Companies and the Law in Zambia, PhD Thesis, University of London, 1980, chapter 5
- 3 Mushota, K.R.K., Control of mining Companies Under Zambian Company and Mining Law, PhD Thesis, University of Birmingham, 1979 chapter 14
- 4 Simwinga, George, Corporate Autonomy and Government Control: A Study of three state enterprises under a national planned developing economy, INDECO, RDC, NCCM of Zambia, PhD Thesis, University of Pittsburgh, 1977 chapter 5
- 5 Shimaponda, L.J., PhD Thesis, Brunel University, 1984.
- 6 Kalula, Evance, Labour Legislation in a Post-Colonial State: Attempts to incorporate trade unions in Zambia, 1971-86, PhD Thesis, University of Warwick, 1988, chapter 8
- 7 By which we mean workers' participation has been impinged upon just in order to give comprehensive meaning to very different subject analyses.
- 8 Schmidt, Charles T., Works Councils in the Republic of Zambia: A Preliminary assessment after the first year of implementation, a paper presented at the 5th World Congress of International Industrial Relations Association, Paris, France, September 3-7, 1979.

- 9 Schmidt, op.cit p.2
- 10 See below, chapter 3
- 11 Fincham, Robin, and Zulu, Grace, 'Works Councils in Zambia: The implementation of Industrial Participatory Democracy', (1980) Labour and Society, Vol.5, no 2, pp. 171-190
- 12 Fincham and Zulu, op.cit., p.172
- 13 Weiss, Manfred, Technical Memorandum to the Government of the Republic of Zambia on a Mission to advise on the functioning of the Works Council System, International Labour Organisation, Geneva, 1983, p. 3
- 14 See Weiss, op.cit. Also Grozdanic, Stanislav, Technical Memorandum to the Government of the Republic of Zambia on a Mission to advise on the preparation of self-management experiments in pilot enterprises, International Labour Organisation, Geneva, 1983
- 15 See Kester, Gerard, Industrial Participatory Democracy and Trade Unions: Report of an exploratory study in Zambia, Institute of Social Studies, The Hague, 1984.
- 16 Weiss, op.cit., pp. 3-4, paragraphs 7-8.
- 17 We have in mind the recent work of Machungwa, Peter, and Mwaba, Tresford, Works Councils and Other Committees: Aspects of Zambian Industrial Relations, M&M Management and Labour Consultants Ltd, Lusaka, 1989.
- 18 Republic of Zambia: Profile of the Ministry of Labour, Social Development and Culture, Lusaka, (1989) p.7, for the budgeted figures 1986-89.



- 19 See Chapter Seven below in connection with IPD.
- 20 For more detailed assessment of the concepts of state see Held, David et al (Ed), States and Societies, Martin Robertson & Company, Oxford, 1983 and also Ziemann, W., and Lanzendorfer, 'The State in Peripheral Societies', The Socialist Register, 1977, pp. 143- 175
- 21 Ziemann and Lanzendorfer, op.cit., and the other authorities cited there. See also Hyman, Richard, Industrial Relations: A Marxist Introduction, MacMillan, London, 1975, Chapter 5.
- 22 Some perspectives are provided by Hailsham, Lord, 'Obstacles to Law Reform', (1981) Current Legal Problems, Vol. 34, pp.279- 290.
- 23 Daintith, Terence, 'Law as a policy instrument', in Daintith (Ed) Law as an Instrument of Economic Policy, Walter de Gruyter, Berlin, 1988, Ch.1, pp.25-33, for other views on forms of law.
- 24 The dictionary meaning is: course of action adopted by government or party or person; prudent conduct, sagacity. The Pocket Oxford Dictionary of Current English, 7th Ed, Clarendon Press, 1985.
- 25 For example see, Irish Management Institute, Industrial Democracy, Dublin, 1969, Appendix C (p.40), where no less than 22 definitions of workers' participation are given. These range from extreme forms requiring overthrow of capitalism and its replacement by the government of workers to milder aberrations of joint consultative

committees.

- 26 See specifically, Sorge, Arndt, 'The Evolution of Industrial Democracy in the countries of the European Community', British Journal of Industrial Relations, (1976) Volume 14, 3, pp.274-94. Also, Sturmthal, Adolf, Workers' Councils: A Study of Workplace Organisation on Both Sides of the Iron Curtain, Harvard University Press, Cambridge, 1964.
- 27 More particularly North America, where Industrial Democracy and workers' participation never quite took up the continental usage. See for instance, Derber, Milton, The American Idea of Industrial Democracy, 1865-1965, University of Illinois Press, Urbana, 1970; Wedderburn, Lord, 'The Legal Development of Corporate Responsibility- For whom will corporate managers be trustees', in Hopt, Klans and Teubner, Gunther (Ed), Corporate Governance and Directors' Liability, Walter de Gruyter, Berlin, 1985, Ch.1
- 28 'Codetermination and other Management Employee Issues' in Schwarz, Richard, (Ed.) Current Legal Aspects of Doing Business in the European Economic Community, American Bar Association, 1978, p.124
- 29 Nikolinakos, Marios, 'Industrial Democracy and Development Process', in Wilpert, Bernard (Ed), Workers' participation in an internationalised Economy, Kent State University Press, Kent, 1978, Ch.1, p.1
- 30 See Chapter 2, section 1.4 below.

- 31 Chapter 3 below.
- 32 Our first attempt at understanding Industrial Democracy and Workers' Participation was in Toward Effective Worker Participation in Zambia, LLM Thesis, University of Wisconsin-Madison, 1983. Though that study concentrated on the concept and the way it was being explained in Zambia, its perspectives gave us sufficient background to be able to focus this study more appropriately to the state as a factor in the development and experience of participation policy in Zambia.
- 33 The Copperbelt University Fellowship which financed this study specifically excluded support for fieldwork in Zambia. The researcher thus absorbed all the financial burden associated with this stage of the work. The distance between Lusaka, where policy makers are based, and the Copperbelt, where industry and trade union centres are located is 360 Kilometres (i.e over 220 miles). Within cities, the transport system is very uneven. Yet the issues we wanted to raise demanded face-to-face interviews in order both to establish confidence and extract maximum information from respondents. In the circumstances, there was little choice but to limit the sample size of industries visited to a number viable within the budget.
- 34 Semi-structured discussions have the advantage of allowing maximum flexibility on how much time is spent on particular points relative to others, and for following issues suggested by responses to different



short, it is a useful method to use in order to get details from limited contacts. See in this respect Jobber, David, 'Choosing a survey method in management research', Graduate Management Research, Volume 3, No. 1. Spring/Summer 1986, pp. 18-22.

35 Other Zambian unions are sector specific: Mines, Railways, Airways, Electricity, Hotels, Transport, Agriculture and Plantations.

36 In 1985 we were involved in seminars for the Post and Telecommunications Union at the President's Citizen's College in Kabwe and the Savoy Hotel in Ndola. In 1986 we conducted seminars for Depot Managers and Supervisors in the Northern Division of the United Bus Company in Kitwe. Our experience here has remained valuable, but it was necessary to obtain more information from different organisations for the specific purposes of this study.

37 Modern Economic History, Macdonald and Evans, London, 1966, p.1

## CHAPTER TWO

### THE ORIGINS OF WORKERS' PARTICIPATION POLICIES: HISTORICAL AND POLITICAL BACKGROUND

#### Introduction

The purpose of this chapter, and the next, is to describe and analyse how the state in Zambia developed laws and policies respecting workers' participation in management decisions. In this chapter, we attempt to set a broad historical and political background, while in Chapter 3 we focus on the immediate context, in the background of which the policy of workers' participation was announced in independent Zambia. We shall also examine there the objectives of workers' participation and discuss the role of law in the attainment of those aims.

The word 'origin' as used in the text is ambiguous. In ordinary English language, the word 'origin' means 'source' or 'starting point'(1). But in the context of state measures 'source' or 'starting point' can be understood as having more than one meaning. First, 'source' may refer to the state official who introduces public measures as the source or starting point of those specific measures. Equally, 'source' or starting point of policies may refer to circumstances or factors leading to introduction of such measures by state officials. In the latter sense, the official is not the originator. He plays the role of a messenger of policies

forged by the 'reality' of circumstances in which the official exists. In this study, both elements of the meaning of origin in relation to state measures are regarded as important, though the second meaning will be found to form more of the conceptual framework of our discussion in this chapter and the following.

The intention to introduce workers' participation in management decisions was first made public in Zambia by President Kaunda at the Second National Convention held in Kitwe in December 1969(2). This aspect of the origin of workers' participation in Zambia is significant in more than one way.

First, we have specificity of time and place when workers' participation in Zambia originated as a serious subject of public policy discussion. Second, we know by whom workers' participation was first mooted, at least in public. These elements are not always so easily specified in histories of workers' participation policies in other countries. For example Germany, where workers' participation dates back to the 19th century and its history is interwoven with policies of governments, employers and trade unions(3). In those countries it has proved difficult to specify where and when, and by whom policies of workers' participation were first started.

The implication is that in Zambia at least, the more



important area of inquiry for the origins of workers' participation is to discover the circumstances under which the government first announced its policy of workers' participation in management decisions. That is, to be able to understand the premises of Zambian policies, it is necessary to know how it came to pass that the President announced the industrial relations policy of workers' participation in management decisions. It is in this sense that our discussion here and in the next chapter will focus on the circumstantial aspects of the word 'origin' with regard to state policies. We shall review the political circumstances and discuss the economic, social and historical framework, in the background of which workers' participation was announced in 1969.

To do this, it is necessary in the first place to find a working framework that justifies a broad historical approach to the subject. Such a framework is provided by the different perspectives which have been adopted in analysing industrial policies in Zambia, and workers' participation in particular. Four propositions are pertinent to the discussion that has taken place in Zambia since introduction of the Industrial Relations Act, 1971. They are: (1) the Philosophy of Humanism (2) the political concept of Participatory Democracy (3) the notion of the new role of labour in development and (4) the role of international influences. After an examination of these propositions in the first section, we shall proceed in section 2 to sketch in detail the local political, social and

economic developments which will serve to structure much of the subsequent discussion of how workers' participation originated in Zambia.

## **1 Origins of workers' participation: Four Propositions**

### **1.1 The Philosophy of Humanism**

The first proposition likely to confront anyone coming to the subject of workers' participation in Zambia is that workers' participation originated in that country as a consequence of Zambia's adoption of the Philosophy of Humanism(4). President Kaunda, Ministers and officials at IPD all suggest that workers' participation in Zambia derived from the ascendancy of the Philosophy of Humanism in Zambia's political life(5). While support for Humanism may not be surprising from President Kaunda's government officials, it is fair to state that it is not only government spokesmen who have attributed the development of workers' participation in Zambia to the Philosophy of Humanism. Many other external commentators have explained workers' participation in Zambia in terms of the Philosophy of Humanism. A clear example is Peter Machungwa in 'Zambian Humanism as the basis of workers' participation in management decision making'(6). Stanilav Grozdanic also asserted that "The theoretical basis of Industrial Participatory Democracy as understood in Zambia is to be found in the national Philosophy of Humanism"(7).

The attraction of Humanism in explaining the origins of



workers' participation policies has to be seen from a chronological perspective. Humanism was proclaimed as Zambia's national Philosophy in April 1967. With workers' participation policies coming in 1969, Humanism was already well poised to buttress any new policy measures. President Kaunda was indeed sufficiently explicit on the point in 1969 :

time has come for us to establish relations between workers and the employer that are in keeping with the Philosophy of Humanism. In other words, our legislation must be such that it creates an atmosphere which will be conducive to the creation of a man-centred society...(8)

From an investigative position, the question to ask is not whether, in fact, Humanism had influence, but what is Humanism and why was Humanism adopted in Zambia. To answer these questions it is necessary to know something about the context of post-independence policies in Zambia. We therefore wish to leave these and other related points to Chapter 3.

## 1.2 The Political Concept of Participatory Democracy

The second proposition, and one which is closely allied with the Philosophy of Humanism, states that workers' participation originated in Zambia in order to carry into effect the political concept of Participatory Democracy. Participatory Democracy has been explained as an organisational concept encompassing all spheres of political, social and economic organisation in Zambia. Outside political speeches, and they



are many, it has been given detailed study by Partrick Ollawa in Participatory Democracy in Zambia: The Political Economy of National Development(9). According to this work, the underlying theme of the concept of Participatory Democracy is that people who have to be affected by decisions must in one way or the other be involved in making those decisions. Its populist slogan is "power to the people"(10). Practical manifestation of participatory democracy in Zambia has been in the proliferation of institutions structured in a way ostensibly intended to serve the aims of participatory democracy. Both government and Party administrative structures have been affected.

The earliest steps in government thinking in this direction can be traced to the Local Government Administration Act, 1965(11). This Act established a uniform pattern of democratic local authorities throughout the country. In 1969, further steps were taken. A cabinet Minister was appointed to head each of Zambia's nine Provinces(12). At the same time fifty-three District Governors were put in charge of individual districts. In 1970, the Registration and Development of Villages Act(13) followed. A revised and even much more ambitious exercise in participatory democracy appeared in 1980 with the passage of a new Local Administration Act(14). This Act sought to establish local councils as administrative organs over which in principle residents were to have control through running schools, hospitals, courts, police, prisons,

roads and other public institutions and services.

At the Party level, the village in rural areas, and the section in urban areas were established as the smallest units of political democratic control. The ward and the constituency were the intermediate, while the National Council and the General Conference, formed the upper echelons of Party democratic control(15).

It can be argued, of course, that certain objective reasons existed which made these exercises inevitable. Indeed, it is hard, if not impossible, to cite any political system which does not create functional structures of governance. But this is beside the point. What is relevant is that under the Kaunda government these local and national administrative changes were pursued in the name of Participatory Democracy. Thus, within the broad use of the concept, introduction of workers' participation was presented as an extension of participatory democracy into the industrial sphere(16).

Evidence tying the origins of workers' participation in Zambia to the above interpretation also comes in two other respects. The official designation of workers' participation policy in the country is Industrial Participatory Democracy. Secondly, the government department in charge of this policy goes by the title of Department of Industrial Participatory Democracy(IPD). Therefore, tenuous as the relationship may be, it is not far fetched to claim some justification in the

connection between the origins of workers' participation and the wider programmes of participatory democracy in Zambian society.

Moreover, President Kaunda has explained the policy of Industrial Participatory Democracy as an "essential element of our policy of decentralisation of power"(17). Elsewhere, Kaunda adds that

the policy of decentralisation promote the type of democracy in which citizens participate not only through their own freely elected representatives but also by their own direct involvement in the decision making process. The spirit behind the decentralisation of Party and Government is power to the people(18).

The explanatory value of this proposition has to be examined in the context of the whole system in which democratic values were cherished. It therefore calls for more information which we shall present below.

### 1.3 The new role of labour in development

The third proposition of how workers' participation arose in Zambia comes from a slightly different angle. It states that workers' participation arose from a political requirement to channel labour into development goals as understood and defined by Zambia's governing elites. Exponents of this view do not always begin from a similar theoretical position but the materials of their analyses and the conclusions they draw



come from observed realities of conflicts between state authorities and the trade union movement or some sections of it in Zambia. Foremost in this view was Bates (1971)(19), Fincham and Zulu (1980), and Kalula (1988)(20). In their different analyses, these writers have tried to show that the conflicts in industrial relations which followed Zambia's political independence in 1964 were instrumental to the adoption of participation policies in the country. According to this view, workers' participation was intended either to harness labour for productivity in the pursuit of development goals (Bates) or to buy labour peace at a cheap price (Fincham and Zulu) or simply to 'incorporate' the labour movement and workers for one or a combination of the above state objectives (Kalula). How well this interpretation explains the development of workers' participation in Zambia will be discussed in Chapter 3 and assessed in the conclusions(21). It suffices at this stage to indicate that this line of argument has two advantages. First, it has direct relevance to industrial relations. Secondly, its factual base is contemporaneous with Zambian developments in the 1960s.

#### 1.4 The Role of International Influences

The fourth, and final, proposition states simply that the policy of workers' participation in Zambia derived from the country's contacts in the international community. Specifically, the development of workers' participation is attributed to the influences of the ILO. This proposition is made most

forcefully by Shimaponda in The Evolution of the Zambian Industrial Relations System(22). Shimaponda begins his explanation from the premise that encouragement of workers' participation among member nations was a policy of the ILO long before Zambia's independence in 1964. That policy, it is argued, goes back to the ILO's Philadelphia Declaration of 10th May 1944. In that declaration, the ILO called on all member nations to adopt labour policies that would ensure

the effective recognition of the right of collective bargaining, the cooperation of management and labour in the continuous improvement of efficiency, and collaboration of workers and employers in the preparation and application of social and economic measures(23).

It is shown that that general declaration was followed in 1952 with a recommendation and resolution on consultation and cooperation between workers and employers at the level of the undertaking. Further, that in 1966, the Governing Body of the ILO requested the Director General to institute studies intended to make available to member nations more information on practices of workers' participation at the level of the enterprise. Finally, in accordance with that request, two ILO meetings on the subject of workers' participation were held prior to Zambia's adoption of workers' participation policies in 1969. The most wellknown of these was the Technical Meeting on the rights of Trade Union Representatives and Participation of workers in Decisions within undertakings, held in Geneva in



1967(24).

By December 1969, the thesis continues, workers' participation in management was well on the agenda of the ILO for member nations to adopt in their conduct of industrial relations. To be sure, Shimaponda would have Britain to blame for what he considers as Zambia's late development of participation policies. According to him, if Britain, as the Colonial master, had been disposed towards schemes of workers' participation, Zambia might have had such policies much earlier than 1969(25). In the context, political independence gave Zambia latitude to introduce industrial relations practices that were outside the domain of British influence. In a nutshell, ILO support for industrial relations programmes of workers' participation provided the inspiration for Zambia. The continued collaboration between Zambia and the ILO(26) is cited to show Zambia's indebtedness to the ILO for support in industrial relations, and workers' participation in particular.

To be certain, Shimaponda does not deny the contribution of domestic factors to the development of workers' participation in Zambia. The value of his suggestion, and perhaps of the whole thesis in The Evolution of the Zambian Industrial Relations System, is to indicate the practical sources of ideas which were arrived at in working out solutions to the country's industrial relations problems.



In assessing the significance of Shimaponda's suggestion, and by extension the contribution of the ILO in the matter under discussion, it should be indicated that between 1967 and 1969, Zambia was in touch with that United Nations Organisation in a way that was more than mere membership. It was a time when the Zambian Government was actively looking to the ILO for ideas on several other industrial relations issues. The most significant outcome being the commissioning by the Zambian government, through the ILO, of Professor Turner to examine and advise her on wages and incomes policies(27). The point then is that the opportunity existed through which the Zambian government would have been made aware of industrial relations practices which were in tune with the general way they wanted their policies to go. From this perspective, there seems to be no necessary conflict between Shimaponda's proposition and the three others already considered which emphasize domestic policies.

### Conclusions

Given these different perspectives, what conclusion can there be to explain the origins of workers' participation in Zambia? From what has been said, it seems more information needs to be given in order to reach more definitive conclusions. Nevertheless, it is possible, on the basis of the perspectives outlined above, to draw certain insights into the subject of workers' participation in Zambia.

Firstly, the circumstances which lead to the adoption of participation policies in Zambia, are not simple. What we have been presented with so far is a complex picture of perceptions in the Zambian system. These could suggest that behind the Philosophy of Humanism, Participatory Democracy, state-trade union policies and the search for international practices in industrial relations were real issues which should require detailed study.

The second point is that the above perspectives bring out the pre-eminent role of the state in the development of workers' participation in Zambia. In all of the four propositions considered, there is every indication that the state or its policies were responsible for the development of workers' participation in Zambia. The critical role of unions in putting workers' participation policies on the political agenda, so much discussed in Western Europe(28), is conspicuous by its absence in Zambia. Obviously, this raises the question why the state in Zambia, not trade unions, was the advocate of workers' participation in industry.

These remarks suggest that in order to understand the origin of workers' participation in Zambia, and to fully explain the pre-eminent role of the state in the Zambian participation programme, much more needs to be said about the country and its social and economic history. It is not just the immediate history of workers' participation in the 1960s which seems to matter. The multifariousness of issues raised

by the different perspectives indicate strongly that the colonial history of Zambia to which post-independence policies related is relevant to any understanding of the origins of the Zambian variety of workers' participation. Therefore, the conclusion is that a good grasp of the Zambian background is essential to explaining not only how workers' participation started but also how this policy subsequently developed in the radically different political, social and economic circumstances of Zambia in the 1970s.

In attempting a broad and detailed historical and political account, we keep in mind the advice of Jean de Givry, who, as Director-General of the ILO, warned of the temptation always to try to examine all problems of social policy under the heading of workers' participation in management(29). In order to avoid such a generalised discussion of Zambia's colonial history, we focus on three selected areas. These are found to have been crucial in evoking and moulding the direction of post-independence policies in Zambia. They are (1) the geographical location of the state and the nature of its political evolution,(2) social and economic organisation of the colonial regime, and (3) its labour relations. We discuss each of these in section 2 under the heading of historical and political background.



## **2 Historical and Political Background**

### **2.1 Zambia - State Location and Political Evolution**

Zambia is located in Central Africa, and covers an area of about 291,000 square miles (753,000 square kilometres)(30). The country is land locked, bordered in the South by Zimbabwe, Botswana, and the Caprivi Strip (an extension of Namibia), on the South-East by Mozambique, in the East by Malawi, on the North-East by Tanzania, on the North and North West by Zaire, and in the West by Angola. While the geo-political location of Zambia is a historical accident, the location itself has had real influence on policy formulation in Zambia. At the time of independence in 1964, Angola, Namibia, Botswana, Zimbabwe and Mozambique were yet to win their political independence. Of these, only Botswana received independence, in 1966, without a war of liberation. The other neighbours in the East, West and South, their wars of liberation were both protracted and virulent.

To appreciate the significance of these external struggles to the formulation of domestic industrial policies in Zambia, it is necessary only to consider briefly the Zambian political evolution in the context of British colonialism in Central and Southern Africa.

Zambia became a Sovereign Republic on 24th October 1964. Immediately prior to this date, the country was the territory of Northern Rhodesia under the direct administration of the

British Colonial Office. The actual evolution of Zambia as a unified political state began in the last decade of the 19th century when, in 1889, British South Africa Chartered Company (BSA), obtained authority from the British government to acquire and administer, among others, areas north of the Zambezi river(31). Until this time the areas north of Zambezi, which constitute modern Zambia, were not under unified political control. They belonged to tribal kingdoms of different sizes, embracing equally different state systems, languages and cultures. For instance, the Lozi in the West, Bemba in the North, Tonga-Illa -Lenje in South and Central and the Ngoni-Nsenga-Tumbuka in the East. The BSA Administration acknowledged the heterogeneity of the territory to some extent, when in 1895, they began to administer Zambia divided into North Eastern and North Western Rhodesia(32).

The two territories were brought together in a unified Northern Rhodesia in 1911. The effective date of this unification is 17th August 1911, when the Northern Rhodesia Order-in-Council came into force(33). The BSA's control of Northern Rhodesia was passed to the British Colonial Office in April 1924. From then on the Governor of Northern Rhodesia, as the representative of the British Crown, became head of government in the Protectorate of Northern Rhodesia(34). He was assisted by a Legislative Council composed of nominated Civil servants of the Crown, and increasingly by members elected from the white settler community of Northern Rhodesia. The doctrine of



indirect rule, as applied to Northern Rhodesia, preserved traditional systems of tribal political control known before colonialism, save the extent to which traditional systems were incompatible with central colonial control. African interests in the Legislative Council, and as called for by the Passfield Memorandum of 1930, were entrusted to white nominees. An indigenous Zambian entered the Legislative Council in 1949, but it was not until 1962 that Africans took control of the legislative Council(35).

In the meantime, Between 1953 and 1963, Northern Rhodesia became part of British Central Africa Federation of Rhodesia and Nyasaland, which brought together present Zimbabwe, Malawi and Zambia. The Federation was at once a political and economic alliance brought about by those politically and economically powerful in the region- the white settlers of Central and Southern Africa. Their ultimate aim was to create a dominion state in Central Africa under which European "ability, initiative and capital"(36) would superintend over the majority Africans. Opposition to Federation was one of the most galvanising issues in the nationalist politics of Central Africa, especially in the Protectorates of Northern Rhodesia and Nyasaland (Malawi). Conversely, the break of the Federation in 1963, and the quick succession to black majority rule in Northern Rhodesia and Nyasaland in 1964 shattered life dreams of the many politically minded white settlers of Central and Southern Africa. In the context, the Unilateral



Declaration of Independence (UDI) which followed in Rhodesia on 11 November 1965 may be interpreted as an act of desperation by a group who saw themselves as being robbed of Cecil John Rhodes' historical promises to the whites of Central Africa. Their marches into the region in the closing decade of the 19th century enabled the BSA company to attain its political ambitions for the British as against those of the Portugese, Germans and Belgians(37). The fear in Zambia of white domination in the economy after political independence acquires its true meaning when understood within the above social and political milieu from which Zambia developed. We return to more of these issues below.

Since independence, Zambia has been ruled by the government of the United National Independence Party (UNIP) led by Dr Kenneth David Kaunda. Up until 13th December 1972, Kaunda ruled Zambia by virtue of UNIP's popularity over the other political parties in the country. Constitutional amendments in 1972, created what is known officially as a One Party Participatory Democracy. In simple language, the constitution permitted one political party to be the sole organ of political power. The Party named in the constitution throughout the period covered by this study was President Kaunda's UNIP(38).

To conclude, it can be remarked that Zambia has had a rapid succession of systems of government in only a space of under 100 years. Viewed as a continuum from the multiple states of a century ago to a unified One Party Political

system of today, and the latter' imminent demise in the 1990s, political evolution in Zambia suggests presence of underlying currents responsible for the successive systems of political control. Whatever the sources of such currents, and their nature, it is reasonable to suspect that these have had real impact on the policies of the day(39).

In the next two sections we highlight colonial economic developments in general and social and labour relations in particular, for their contribution to moulding Zambia's post-independence policies, including workers' participation.

## 2.2 Colonial Economic Developments

Theoretically, modern economic development of Zambia, defined as the production and distribution of goods and services through the media of employment and cash exchange, followed in the framework suggested by Allen in his discussion of typologies of capitalist penetration in tropical Africa-(40). Allen hypothesized that climate, geology and topography conditioned three forms by which capitalism entered tropical Africa.

The first of his propositions is that areas where climate was found suitable for European settlement, the economic resources were exploited by European colonists in the classical sense. That is, the indigenous population was dispossessed of its fertile land, and then recruited both by physical and market pressures as wage labourers. Examples



given of this group are Kenya and Zimbabwe.

The second relate to areas whose climates were found unsuitable for European settlement, but where existed potential for large scale mineral exploitation. It is suggested that there was no need in this instance to acquire land from the indigenous population. The main strategy was on acquisition of mineral rights, which were then exploited by European capital under empire protection. Physical and market pressures were deployed to drive the local population from subsistence economies into the cash economy created by large scale mineral production. Zambia furnishes examples in Central Africa.

The final proposition concerns the pattern of economic development said to have been followed in tropical West Africa. Neither climate nor opportunities for large scale mineral production were found in this region. The device adopted was to leave the production of goods to traditional methods, while European capital mediated processing and marketing arrangements in the area. Physical and market pressures were exerted on the local population to get involved in the cash economy. Peasant production of cocoa and groundnuts in West Africa, according to Allen, began as a result of this line of European mediation of capitalist developments(41). Similar lines of analysis are found in the essay of Giovanni Arrighi, Labour Supplies in Historical Perspective: A study of the Proletarianization of the African Peasantry in Rhodesia(42). This author demonstrates how



settler capital drove the local African population into wage labour in the mines and farms of Zimbabwe just in the way postulated by Allen.

It is useful however, to recognise frameworks of discussion for what they are. They are, as in this instance, helpful ways of ordering rather complex historical developments. The penetration of capitalism in Africa did not follow a pre-ordained path. The criterion for action by individuals, groups and syndicates was dictated by the attraction of opportunities for profits given resources on part of these to engage in specific activities. Consequently, there has been a considerable overlap of ways by which capitalism entered non capitalist territories. This point is amplified by the Zambian case we shall consider below.

Having said that, we still recognise that Allen's typologies offer a good starting point to analysing the pattern of capitalist economic development in Zambia. To start with, there was no tradition of urban dwelling in Zambia when the BSA company took control of the country some one hundred years ago. Zambians lived scattered in small communities organised in kingdoms and chieftainship. Their livelihood was dependent on traditional economic activities: small-scale, non-mechanised farming, cattle herding, fishing and hunting. Labour for these subsistence activities was obtained, and distributed, through kinship networks(43).

From this perspective, Zambia's modern economic system, as defined above, began, to the extent it exists in the country, with European penetration in Central and Southern Africa. As with political administration, the introduction of European system of economic arrangements created an interface between that and the traditional systems. In attempts to get Africans to be involved in capitalist economic arrangements, conflicts were inevitable. Each former colonial possession has its own story, as indeed every other country where capitalist relations have developed.

A peculiar feature in Zambian developments was the dual role of the British South Africa Chartered Company. Both European rule and capitalist economic relations were pushed at the same time by activities of this commercial company. That is to say, the BSA was at once a government and a commercial company in Northern Rhodesia. We are concerned in this part of the study with its role as a commercial company advancing capitalist values and ways of organising production. In this role, the BSA's initial interests in Northern Rhodesia were in the prospects of mineral riches. In retrospect, it was through discovery of minerals that Zambia's economic development began in earnest. Minerals however, could not be found everywhere in Zambia like Savannah grass and woodlands! In fact, the expectation of the BSA to find significant mineral deposits in Zambia in the 1890s did not materialise until well into the 1920s when a rich area of copper deposits was discovered.



Therefore, up until the development of the copper industry in the 1930s, Zambia was predominantly a traditional society where cash employment, urban living and industrialisation were either isolated and limited or non-existent at all. The imposition of a modern, highly mechanised copper mining industry upon a predominantly rural subsistence economy caused, as we shall see below, disparity between the affluence of the copper region and the deprivation of the rest of the country. The sense of urgency given to issues of racial economic disparity in both nationalist politics and post-independence policies had their sources in these historical developments. Before we examine the contribution of copper to the creation of the modern economic system in Zambia, it will be useful to explain what else was there before the copper boom in 1930s and 40s.

Historically, the advent of copper industry coincides with the demise of company rule in Northern Rhodesia. In all thirty years had intervened since colonialism was forced on the area. Much of the foundations of capitalism in Zambia were erected during this period. Five principal areas of cash employment under company rule can be specified for the purposes of indicating the extent capitalism had penetrated before the copper industry in Zambia.

First, since the 1880s, Company agents and Missionaries had always employed African labour in their stations as interpreters, guides, messengers, house servants, gardeners,



watchmen and builders. Through such employment, cash percolated into rural subsistence economies. By and large, this was a domestic service industry which by its nature could not lead to urban growth. The second source of employment came with the development of the Kabwe (formerly, Broken Hill) mine in 1904. This followed discovery of deposits of Lead, Zinc and Vanadium at Kabwe, 80 miles north of Lusaka, in 1902. This discovery was important in more than one way. It led to other commercial developments of subsequent importance to the economy. The main one was the creation of incentives to build a railway connecting Southern Rhodesia and South Africa to Katanga Mines (South of present Zaire) passing through Kabwe in Central Zambia.

The building of this railway, starting in 1904 and finishing in 1910, offered the third most important source of employment in Northern Rhodesia under company rule. One of the oldest industrial companies in Zambia, Zambezi Saw Mills Ltd (formerly Redwood Investments), arrived in Zambia in 1908(44). The company came in the country as a branch of Rhodesia Mercantile Holdings of Southern Rhodesia, to exploit teak and other varieties of timber in the forests of South Western Zambia. Its base was Livingstone, the place where the railway crossed from Southern into Northern Rhodesia. For the purposes of transporting logs of timber to the mills in Livingstone, Zambezi Saw Mills constructed a railway track to the forest areas of Mulobezi and Sichili. This railway, the mills and the

associated lumbering remain a folklore in the history of Zambia's industrial and urban development outside the copper mining region(45). Livingstone, the home of Zambezi Saw Mills, was in fact the capital of the BSA administration in Northern Rhodesia despite its awkward siting in relation to the whole territory.

The Fourth area of cash employment in Northern Rhodesia was provided by farmers and shopkeepers who gravitated to the North with the Railway. The Northern Rhodesia shopkeepers in particular, are celebrated in Zambia's industrial development for having produced the first African trade union organisation, Copperbelt Shop Assistants Union on 2 November, 1947(46). But the arrival of European and Indian shopkeepers was much earlier than their subsequent concentration in the mining area of the Copperbelt in the 1930s and 40s. For instance, a branch of South Africa Standard Bank had been established in Kalomo in 1906 to assist shopkeepers, contractors and workers building the railways(47).

Farmers, came mostly during World War 1. They were granted land along the railway line. Africans were dispossessed and re-located to remoter areas. In practice, many of the Africans affected became farm workers of the new land owners. They were allowed to stay so long they agreed to shift around in accordance with the farmer's decisions on how best to use his land(48). In this context, farm work too became a source of



employment facilitating transition to the cash economy.

Fifth, and lastly, a major source of employment during company rule was the farms, mines and industries of Southern Rhodesia and South Africa. Employment was also available to natives of Northern Rhodesia in Katanga, Zaire.

Statistics on wage labour during company rule are hard to come by in historical sources. But later estimates of employment in Northern Rhodesia make it plain that foreign lands provided the main stay of cash employment under the BSA regime. In 1928 for instance, some 21,334 Zambians were reckoned to be working in Southern Rhodesia alone. A total of 10,500 Zambians were reported in the Katanga Copper mines of Zaire in 1929(49). We have not seen figures of Zambians working in South Africa, and perhaps Tanzania, during this period. But it is still reasonable to conclude that probably there were more Zambians working for cash in other countries than at home during the BSA administration. This conclusion is realistic in the light of a figure of 24,000 known to have been in cash employment in the whole of Northern Rhodesia in 1928(50). By this date, construction had begun on the copper industry, whose first mine, Roan Antelope, became first operational in 1929. Without the added numbers of construction workers, the actual figure of workers in employment in Northern Rhodesia in 1928 might have been far much smaller compared to those reported working outside Northern Rhodesia.



To summarise, the point we have established is that by the advent of the copper industry in Northern Rhodesia, the foundations of a capitalist economy had been truly laid by activities of company officials and missionaries, Kabwe lead and zinc mine, the railways, Zambezi Saw Mills and migration to jobs in Southern Rhodesia and South Africa. We have also indicated that the main area of employment under the BSA government were jobs in neighbouring countries, particularly Southern Rhodesia and South Africa.

The BSA's legacy of commercial agency in African labour was the issue never lost in Northern Rhodesia, both before and after independence. It appears that the BSA had reasoned from the start that if minerals could not be found in Northern Rhodesia, the country would still be useful as a labour reserve for its other commercial interests in Southern Africa. Thus, throughout the BSA administration, commercial agency in African labour was at the heart of the economy in Northern Rhodesia. Not only did the BSA collaborate with recruitment agencies like Rhodesia Native Labour Bureau and Robert Williams & Company but its administration also facilitated this business by imposing, as early as 1900, a hut tax on "every male person considered to be of sound body and mind and over the age of 18 years"(51).

The imposition of the poll tax payable in cash on people living in a traditional system presented only two practical options to the men involved. The first of these was to travel

from villages to find work to earn the money. In early Northern Rhodesia, this meant leaving the country itself for other lands. The second way possible was to sell the produce of the traditional economy, mostly livestock, to the people with money. Given the circumstances, few people had money in Northern Rhodesia. Effectively, a buyer's economy was created with all the consequences that entailed for the local owners of produce. In the main, the people with money were the Southern Rhodesia white farmers who sent in agents into Northern Rhodesia to buy cattle for their farms in that country or for the more lucrative market in South Africa. The Susman Brothers who dominated the retail market in colonial Zambia are said to have made their fortune acting as intermediaries between Africans and the advanced markets of Southern Rhodesia and South Africa(52). On the other hand, the men who had cattle were the elderly, most favoured by the traditional systems of wealth distribution - inheritance and marriage dowry. The burden of migrant jobs therefore fell on the younger men, whom recruitment agencies searched for in rural areas and subsequently graded for suitability in mines, industry and farms of neighbouring countries(53).

In a nutshell, that is the setting of the inequities in the BSA economy of migrant labour, which generated resentment and lasting political arguments in Northern Rhodesia. Three of the main criticisms of the BSA economy that formed an important element of reform in independent Zambia can be



identified straight away.

First, it is contended that recruitment for southern states undermined traditional agricultural economies by depriving rural areas of their strongest male component. Secondly, the poll tax so collected was not used to provide infrastructure and services to rural areas. Thus, the economies of rural areas suffered deprivation without prospects of regeneration from the government. The resources either went to company profits or to defraying costs of a commercial company's involvement in government administration. The third, and related criticism was that the BSA's interests in Southern Rhodesia and South Africa spelled doom for Northern Rhodesia's economic development. The company had no real incentives to develop its most northern post in the absence of significant discovery of minerals which the company had hoped to find in the 1890s(54).

Turning to assessment of these arguments, it is difficult to see how a large backward country could have been developed in the early twentieth century by the government of a commercial company which, for 30 years, did not find even what it originally sought. For this reason perhaps, Zambian economic politics are better understood in terms of the development of the copper industry which, as we have noted, coincided with the assumption of direct British rule over Northern Rhodesia. For all its contribution to the creation of modern Zambia, the BSA's rule in Northern Rhodesia is a



ridiculed affair. Perhaps only as ridiculed as the legality of treaties with local chiefs upon which the company based its claims over the minerals of the country(55).

Thus far, it begins to emerge that the issues of economic development have a long and unsatisfactory history in Zambia. Copper, even under indigenous control, has not been able to redress the age old grievances of modern Zambia. It is generally acknowledged, however, that the copper industry had immediate effects on Zambia's development. Large scale mining attracted a number of other industrial projects into Northern Rhodesia. These dealt in electric power generation, construction, transport, steel and metal products, timber and cement necessary to the mining industry. These industrial developments inflated local demand for manual wage labour. This new found capacity of Northern Rhodesia industry to absorb local labour fuelled the politics of native labour recruitment, leading in 1933, to the closure of Rhodesia Native Labour Bureau, though not the practice itself(56). Mining activities were reduced during the depression of the early 1930s, but flourished after that to an estimated total of 29,000 employees by the end of 1939(57). After the war, mining labour expanded too to over 40,000 in 1954(58). By independence in 1964, the mining industry still employed some 39,203 Africans(59). Overall, it has been written that,

the development of the copper mining industry turned Zambia in twenty years from a backward rural territory

into one of the most rapidly growing economies in the world, making Zambia, one of Africa's most industrialised and urbanised states(60).

Such lavish compliments to the role of copper should be countered with the view that the copper industry failed to bring development to the rest of the country. The disparity between the Copper mining region and the rest of the country, as we have intimated, is an issue to which politicians and academics alike have constantly returned.

Copper's ability to extend developments throughout the country was very limited. Geologically, for instance, the copper ore was found in a small area of the country, now appropriately called the COPPERBELT. As against Zambia's total area of 291,000 square miles, the Copperbelt covers at best an area of a 30 mile radius. This means physical developments concerning the mining industry could not extend very far into the country. Secondly, the new copper mines located roughly in the same area as that already serviced by the 1910 railway line to Southern Zaire. This too necessitated no major opening up of the country. Thus, once the infrastructure of copper extraction and transportation were in place, the mining industry could relate to the whole country only in terms of its inputs.

The most important and locally available input into the mining industry was African labour. Its treatment in the



mining industry was therefore to be of importance because it was through the relations with African labour that the benefits of copper could spread to the whole country. We discuss the labour relations element in colonial Zambia in the next section.

One other way the copper industry could have helped the whole country is stimulating manufacturing industries(61). Those based on copper metal itself or others essential to mining supplies or for the consumption of the people who worked in the mines. In the event, the strategy of mining companies was to limit their investments to extraction and exportation of crude copper ore. This foreclosed the possibility of industries based on the exploitation of the locally available copper metal. At the other level, inputs of the mining industry, and consumer goods were imported from factories of Southern Rhodesia, South Africa and Britain as was the case before advent of the copper industry(62).

The reasons why Northern Rhodesia was slow in developing a manufacturing infrastructure of her own are many and complex, but the basic ones can be presented fairly from the political and economic history of Northern Rhodesia sketched so far. Zambia was colonised by Britain from Southern Rhodesia and South Africa through the agency of the British South Africa Chartered Company. We have seen too how the country was an extended labour market of those two countries during BSA rule. From this mixture of historical factors, establishment of



manufacturing industries in Zambia was a doomed prospect because there was initially no real market to service. The few who held jobs in the country could be serviced by scores of shopkeepers scrounging a capitalist living in the country. At any rate, the demands of rural people for manufactured goods during those early days of colonialism were very basic indeed-(63).

Arguably, the market situation changed appreciably after the development of the mining industry. This brought together a sizable consumer population(64). The mining industry was itself a major consumer of industrial outputs. When combined these factors could have justified the presence of manufacturing companies. Other factors however, countered these advantages.

First and foremost, development of the mining industry in an isolated end of Central Africa needed initially establishment of good road, rail and air links to the outside world for purpose of construction supplies. Once these facilities were in place, there remained few economic reasons why goods could not be supplied from established factories of Southern Rhodesia and South Africa. The earliest factories in fact, were those which dealt in bulk goods such as brewing, milling and cement which could be brought to Northern Rhodesia only at a greater cost. It should be remembered too that the consumer market of Northern Rhodesia was concentrated on the copperbelt, an area already well connected to the outside

world. Thus, even without having to consider skills factors and the more vexing issue of the composition of investors in Central and Southern Africa, there were sufficient economic reasons for capitalists not to build their factories in Northern Rhodesia(65).

Other factors of course, played a part. The history of Northern Rhodesia after the demise of the BSA, for example, is dominated by white agitation for amalgamation or federation with Southern Rhodesia. The formation of the Federation of Rhodesia and Nyasaland on 3 September 1953 was a direct outcome of this political activity. Under such sustained campaigns by the most powerful section of the community, it was reasonable for capitalists to choose to locate nearer the likely seat of government. This was clearly Salisbury [now Harare], the capital of Southern Rhodesia. The proximity of Southern Rhodesia and South Africa to developed markets of the world through better rail, sea and air links cannot also be ignored in any objective examination of this scenario.

The consequence was that Northern Rhodesia was at a disadvantage. The territory's status as a labour market in the BSA era was not improved by its new role as a consumer market for the goods from the Southern states. From the point of view of nationalists, this development was intolerable. They generally saw Northern Rhodesia as a country denied opportunities to develop in its own right. Good reasons could be found for the pessimism of Black politicians. For all



Northern Rhodesia's fame in the 1950s as the third largest copper producer in the world, much of the country had remained practically undeveloped; the people poor, unhealthy, uneducated and without such facilities as extension and market services. This is how one economist later summed the episode:

At the time of independence, Zambia inherited an archetypical dual economy. Its small export enclave was devoted almost entirely to crude copper, which constituted 90-95 per cent of its exports. It imported almost all the manufactured goods consumed. Outside the limited enclave built around the copperbelt and about 1,000 line of rail settler estates, the rural areas stagnated. The drain of thousands of young men forced to seek wage employment by colonial taxes, and by regulations which hindered other forms of African participation in the so called 'modern' sector, disrupted and undermined the existing system of production in the regions(66).

If discussion of colonial economic developments presents a picture of Zambia as a grieving nation at independence, the next will paint one of aggrieved individuals because we want to highlight the human experience of African labour in Northern Rhodesia.

### 2.3 Labour relations in Colonial Zambia

The story of labour relations in colonial Zambia has been told too often enough to warrant detailed repetition here(67).



Attention is therefore drawn only to those aspects of colonial labour relations which fed into post-independence policies, and worker participation in particular. The general tenor of workers' participation policies, as explained in Chapter 1, concerns the involvement of employees in managerial decisions of companies. From a historical stand point, this is a progressive development seeking to move labour-management relations from the position of conflict with, and subordination to capital towards a trajectory of cooperation and secured rights of employees in the workplace. Given this, how did Zambia's colonial labour relations prepare the independence government to adopt such a perspective of industrial relations?

Before we go any further, we should dispose of a definition problem. The term 'labour relations' is usually reserved to describe relationships between management and representatives of organised labour(68). This is not the sense in which we want to understand labour relations in this section. Instead, we treat it more narrowly as a study of individual employer-employee relationship. We want to inquire into relationships, attitudes, practices and procedures which colonial employers adopted in their dealings with individual employees. One reason why we take a narrower view of labour relations is that we shall deal with the trade union aspects in Chapter four. The other is that the narrower view is much more relevant in a long term view of employment relationships in colonial Zambia. The history of organised labour occupies

short space, having been permitted to operate only in the last 15 years of colonialism.

The greatest experience of labour relations in colonial Zambia was offered overwhelmingly by the mining industry and enterprises that clustered around the Copperbelt. The reasons lie in the history of industrial and commercial developments described in the previous section. Cherry Gertzel also pointed to the relevance of the mining industry when he observed that any survey of labour relations in Zambia:

must necessarily acknowledge the central position within the economy of the copper mining industry which was the basis of the colonial economy, on which the country remains overwhelmingly dependent and which has had a major influence upon the development of industrial relations- (69).

Objectively, there cannot be one view to the way African workers were treated under colonial Zambia. Individuals were recruited into the mines with their different personality qualities, industrial experience and levels of dependence on wage labour which were all offered into relationships with white supervisors and employers. Besides, the mining industry was, as it is now, a vast industrial complex with various divisions, departments and sections. The experience of individuals in the mines was, to some extent, differentiated by such sectional variations.

Despite the above qualifications, colonial labour relations in the mining industry was what it was: Black and marginal. It was black because the colour bar principle operated and blacks were the victims(70). Marginal because Africans as individuals lacked political and technical skills which could be offered as leverage in the complexity of underground mining. Africans were thus at a disadvantage.

The description of black treatment in Northern Rhodesia indeed often defies a sense of balance. According to one political sociologist, Michael Burawoy, "overt and explicit racism was the organising principle", while "physical violence" on blacks "was the rule rather than the exception" in Northern Rhodesia mines(71). Charles Perrings also notes that,

Violence in the interest of 'discipline' was also extremely common, and was cited by workers as the main cause of desertion at Roan Antelope in the 1930s(72).

In view of the abundance of evidence, what can be done fruitfully is not to dwell on descriptions of the treatment of Africans, but to ask why there was such a harsh regime of labour relations in Colonial Zambia. From our reading, the answers point to the history of the country, and of the mining industry in particular.

First and foremost, the history of thirty years under the government of a commercial company was in itself a fine



prelude to the harsh treatment of the African workforce. The BSA's strong connections with South Africa did not help the matter at all. Worse, was the fact that the BSA's initial economic activities centred around mediating African labour supplies to the factories and mines of southern states. Through the screening and grading processes, the African usually lost his dignity in the eyes of company officials. But other far seated cultural prejudices underpinned the severity of colonial labour relations in the whole of Southern Africa.

The common perception among white employers in the region was that the African showed no disposition to paid work. He therefore required specific arrangements to get him to accept industrial discipline. This was not a naive view held only by low level management supervisors. It was one broadly supported at the highest level of colonial power in Southern Africa. The letter of Lord Milner, the British High Commissioner in South Africa to the Colonial Secretary, Joseph Chamberlain, on 4 October 1901 illustrates the point:

The black man is naturally inclined, much more than the white, to do nothing at all. As the economic compulsion which is found in European countries does not exist here, he will, if left to himself, generally live in absolute idleness, without adding in any way to the productivity power of the country in which he lives. I cannot conceive that, under any except the most distorted code of morals, it be thought right for us to encourage him in this

attitude, or even not to dissuade him from it by reasonable means(73)

By the time of the copper industry in Zambia in the 1930s, the mining bosses were well sensitized to the view that Africans had a

racial abhorrence of all hard work and sustained labour... the African will cover miles as a letter carrier..., cut wood, act as a policeman, undertake any task which lends itself to the enjoyment of occasional dawdling; but to set, resolute, and unfailing labour such as the mines, with their regular hours and ties on liberty, he represents an uncompromising front...(74)

In the context, it is hardly surprising that mining companies negotiated and obtained for themselves civic jurisdiction over the mines, mining townships and mining personnel in Northern Rhodesia(75). The aim of these arrangements was to maintain African labour within the grip of 'colonial despotism', by which, according to Jane Parpart, the subordination of Africans was completed from "home to the underground"(76).

If the first source of harsh labour relations came from specific political arrangements of the mining companies, the second emanated from the more broader political environment of the colonial system. In particular, the contradictory policies that were pursued by the Colonial administration

towards Africans in the labour market. At one level, Africans were supposed to work and earn cash in order to improve their standard of living and to meet their government revenue obligations. At the other, they were not to remain in urban areas for any time longer than they were contracted for. The net result was that Africans oscillated between urban and rural areas depending on requirements of the employers. Thus, forced into a position of dependence on both wage labour and peasant or subsistence agriculture, most Africans were put in a position of real vulnerability, especially from the point of view of acquiring industrial skills(77). Africans could be used and discarded by employers not just because it made economic sense, but doubly that it was in conformity with what was politically encouraged. These were hardly circumstances in which African labour could have expected better treatment from its employers.

The third element in the harsh labour relations of the mining industry is found in more subtle reasons. This dealt with the necessity on the part of the mining companies to import into Northern Rhodesia a large population of skilled white miners from America, Britain, Rhodesia and South Africa. This has been explained on account of higher levels of skills that were needed to work deep underground mining in an area of poor geological formation, and at a time when the state of technology was an added constraint(78). The investment of the mining companies in the pay and social infrastructure which



was to induce Europeans to come to what was then a remote region of central Africa, had to be paid for in other ways. For the purposes of the analysis developed in this section, the strategy of the mining companies was to treat the entire African labour force as a periphery, using that term in its industrial relations context(79). It meant then poor working conditions, pay, training, housing and many other amenities that were provided on racial lines.

Borrowing the concepts of 'core' and 'periphery' into a colonial situation is really a sophisticated, if not also mischievous, way of explaining things. Colonial officials were more forthcoming. Low wages were justified on the ground that apart from payment of taxes, the African could "live comfortably without any money at all"(80). Perrings repeats the point just made when he explained that low wages among Africans was in itself,

a regime calculated both to serve and promote high rate of turnover in the workforce(81).

Consistent with these explanations of colonial attitudes were the frequent advertisements by mining companies of Northern Rhodesia that their labour costs were the lowest in the world(82).

From what has been explained above, it is apparent that the mining industry and colonial officials were not constrained to hide differences between Whites and Blacks in

terms of sophisticated labour market economics. That was obviously an option open to the officials. But in Central and Southern Africa 'frankness' with blacks served its own social and political purpose: to further settler aspirations to dominate over the indigenous Africans. In this context, the political motives of Whites in the region was another added element responsible for the severity of colonial labour relations in Northern Rhodesia. To the extent that Africans were seen as potential rivals to political and economic control of the region, their subjugation at the industrial level supported at the political front the desire of Europeans to remain senior partners in Central and Southern Africa.

In conclusion, labour relations in colonial Zambia reflected a classic master and servant relationship, between white and black, the superior and the inferior. Viewed within its originating social and political milieu, colonial labour relations was a strategy of overall European control. In the words of Samir Amin,

Africans were meant to undergo a form of colonial subjugation that was direct, crude and simple, providing no opportunity for the appearance among the natives of any equivalent to the big agrarian capitalists and comprador merchants of Asia and Latin America(83).

Considering that employment was the most significant way by which Africans participated in the cash economy, it

would have been surprising if the independent government did not accord priority to industrial relations policies.

### Summary

The purpose of the preceding sections, and of the whole Chapter, was to provide an outline of Zambia's historical and political background. We do not claim to have done justice to the many complex issues in Zambia's 70 years of colonial rule. It is our hope, however, that sufficient information has come out to provide a backcloth against which we can proceed to the analysis of Zambia's economic and industrial policies. It will be unnecessary repetition if we attempted to re-cast what has been said in this Chapter. It suffices to emphasis that issues concerning the Federation of Rhodesia and Nyasaland and determination of the Whites to exclude the Africans from the political process; treatment of Northern Rhodesia as a labour and product market of southern territories; racism and African advancement in mining industry; and general lack of social infrastructure which characterised rural poverty, were, in the main, the very issues upon which Zambia's political independence was fought(84). They are the issues which still determined the agenda of post-independence policies to which we turn in the next Chapter.



## FOOTNOTES TO CHAPTER TWO

- 1 Following The Pocket Oxford Dictionary of Current English, 7th Ed., Clarendon Press, Oxford, 1985.
- 2 See extract of his speech in Appendix A.
- 3 For historical discussions see especially Das, Nabagopal, Indian Experiments in Industrial Democracy, Asia Publishing House, Bombay, 1964, Ch.1; Thim, Alfred L., The False Promise of Codetermination, Lexington Books, D.C. Heath and Company, Lexington, 1980.
- 4 What Humanism was supposed to mean is addressed in Chapter 3 below. For other references, see Meebelo, Henry, Main Currents of Zambian Humanist Thought, Oxford University Press, Oxford, 1973; 'Humanism in Zambia' in Fortman, Bastiaan, After Mulungushi, East African Publishing House, Nairobi, is the original pamphlet by President Kaunda on the subject of Humanism in 1967.
- 5 These official views can be found in speeches published by IPD as part of national or regional workshop papers, 1976-86. See also Ch.7 below.
- 6 A paper presented at a Five-Day IPD/ILO National Workshop on Workers' Participation, held from 19th- 23rd November, 1984, Republic of Zambia, IPD, Lusaka, 1984, pp. 123- 133.
- 7 Technical Memorandum to the Government of Zambia on a Mission to advise on the preparation of Self-Management Experiments in Pilot Enterprises, ILO, Geneva, 1983, Part 2, p.6

8 Appendix A.

9 Arthur H. Stockwell Ltd, Devon, 1979.

10 Kaunda, President, Five-Day IPD/ILO Workshop, op.cit, p.9

11 Chapter 480 of the Laws of Zambia, 1965 Edition.

12 The ninth Province, Lusaka, was added in 1976.

13 Chapter 483 of the Laws of Zambia.

14 For an appraisal of the 1980 development see Chikulo, B.C.

'Reorganisation for Local Administration in Zambia: An analysis of the Local Administration Act, 1980', (1985)

Public Administration and Development, Vol. 5, pp 73-81.

15 Kaunda, President, Five-Day IPD/ILO Workshop, op.cit, p.11

16 Or as President Kaunda put it: The aim of Industrial Participatory Democracy is to provide within industry a parallel to political democracy, Report on the Provincial Workshop on Workers' Participation in Decision-Making in Zambia, held from 15-17 May, 1985 at Chipata Teachers' Training College, IPD, Lusaka, 1985, p 5.

17 Kaunda, President, Five-Day IPD/ILO Workshop, op.cit., p.9

18 *ibid.*

19 Bates, Robert H., Unions, Parties and Political Development: A Study of Mineworkers in Zambia, Yale University Press, New Haven and London, 1971.

20 These two studies have been introduced in Chapter 1, see notes 7 and 12 there.

21 Chapter 8:2 below.

22 Shimaponda, L.J., op.cit., ch. 9

23 Quoted in Das, Nabagopal, op.cit. p.19. For greater scope

of the Declaration of Philadelphia, see also Valticos, N.,  
International Labour Law, Kluwer, Davenport, 1979.

24 Reproduced as Series numbers 32 and 33 of the ILO, Labour  
Management Relations Series.

25 Shimaponda, op.cit. p. 560

26 That support includes ILO Missions mentioned in this study  
and assistance for labour and middle management training  
programmes at the President's Citizen College, Kabwe.  
ibid., p.570

27 Report to the Government of the Republic of Zambia on  
Incomes, Wages and Prices (The Turner Report), ILO, Geneva,  
1969.

28 Contrast for instance, with the histories of workers'  
participation in Britain, Germany or Sweden where the  
unions have had considerable influence on the issues. A  
useful source is Blanpain, R. (Ed) International Encyclo-  
paedia for Labour and Industrial Relations, Kluwer,  
Davenport.

29 'Workers' Participation in decisions within undertakings'  
(Oslo Symposium), Labour-Management Relations Series, No.  
48, ILO, Geneva, 1974, at p.93

30 Following ZIMCO Diary, Lusaka, 1986, p.6

31 The British South Africa Company was empowered under its  
Royal charter of 1889 to "acquire by any concession,  
agreement, grant, or treaty all or any rights, interests,  
jurisdictions and powers and powers of any kind or nature  
whatever". Quoted in Slinn, Peter, 'Commercial Concessions



and Politics during the colonial period: The role of the British South Africa Company in Northern Rhodesia, 1890-1964, African Affairs, Vol.70 1971, pp.365-384, at 365, footnote 2

32 For this and subsequent evolution see Republic of Zambia, Proposals for Integrated Local Government Administration, Zambia Information Services, Lusaka, 1978.

33 Reception of English Law Act, Chapter 4 of the Laws of Zambia.

34 A Protectorate contrasted with a colony in degree. The former offered protection to the indigenous population from other imperialists, the latter meant more formal domination by the colonisers.

35 Mulford, David, C., Zambia: The Politics of Independence 1957-1964, Oxford University Press, Oxford, 1967.

36 Per Sir Roy Welensky in Welensky's 4000 Days, Collins, London, 1964. Quoted in Pettman, Jan, Zambia- Security and Conflict, Davison, London, 1974, ch 1, p. 13

37 The Portugese took Angola and Mozambique, Germans Namibia and Tanzania, while the Belgians took Zaire. The middle was therefore already vulnerable for scramble, hence the historic position of those who volunteered to march into the interior on behalf of the BSA. For a Centenary Celebration article see, The Guardian, Friday September 14, 1990, p.12

38 Article 4 of the 1973 Republican Constitution. At the time of writing (Summer 1991), the One Party mandate has been

abolished and a new Constitution has been adopted for possible general elections in October 1991. See The Independent, August 5 1991.

- 39 It has been suggested that changes in constitutional structures in the Third World is a factor of "constant shifts in the class structure and relationships among the peoples of the Third World". Ziemann and Lanzendorfer, 'The State in Peripheral Societies', The Socialist Register (1977), pp. 143- 175, at 163
- 40 'The Meaning of the Working Class in Africa', (1972) Journal of Modern African Studies, Vol.10, pp169- 189.
- 41 *ibid.*, pp. 179-180
- 42 Arrighi and Saul (Ed.), Essays on the Political Economy of Africa, Monthly Review, New York, 1973, pp.180-234
- 43 Todd, David, and Shaw, Christopher, 'The Informal Sector and Zambia's Employment Crisis', (1980) The Journal of Modern African Studies, Vol. 18, NO. 3, pp.411-425, at 411. For interesting views on the consequences of retaining this mode of production in Africa refer to Goran, Hyden, 'The Anomaly of the African Peasantry', (1986) Development and Change, pp. 677-705
- 44 We follow on this section Chaput, Michael Joseph, The Zambia State Enterprise: The Politics and Management of Nationalised Development, PhD Thesis, Syracuse University, 1971, Part 2, pp. 64-72
- 45 The Malozi people, for instance, have many tales of life at 'SOMILI' (Saw mills). Personal information. Meebelo, Henry,

- African Proletarians and Colonial Capitalism, Kenneth Kaunda Foundation, Lusaka, 1986, pp.142-148, for other notes on the Lozi and the Zambezi Saw Mills.
- 46 Meebelo, op.cit., p.183
- 47 Chaput, op.cit. p.67. Kalomo, near Livingstone was also the capital of North-Western Rhodesia before amalgamation in 1911
- 48 Todd and Shaw, op.cit. p.412; Meek, C.K., Land Law and Custom in the Colonies, Oxford University Press, London, 1949, pp.120-128
- 49 Berger, Elena, Labour, Race and Colonial Rule: The Copperbelt from 1924 to Independence, Clarendon Press, Oxford, 1974, Ch.2, p.12
- 50 ibid.,
- 51 See Report in Footnote 32, at p.3
- 52 Susman Brothers had a total of 120 stores through out Northern Rhodesia at Independence. Chaput, op.cit. p.68
- 53 Heisler, Helmut, 'The African Workforce of Zambia', (1971) Civilisations, Vol. 21, No.4 p.425- 435, at 431
- 54 ibid.; Todd and Shaw, op.cit; and Slinn, Peter, op.cit.
- 55 See particularly Slinn, Peter, opt.cit; Goran, Hyden, op.cit
- 56 Meebelo, Henry, African Proletarians, op.cit. p.7
- 57 Gertzel, Cherry, 'Industrial Relations in Zambia to 1975', in Damachi, Ukandi (Ed), Industrial Relations in Africa, MacMillan, London, 1979, p.309.
- 58 Gertzel, op.cit., p.312



- 59 Copperbelt of Zambia Mining Industry Year Book, 1968, p.46.  
Quoted in Chaput, op. cit. p. 234
- 60 Gertzel, op.cit., p.307
- 61 This is what was attempted by the state in her Economic Policies (1968-70), deliberate creation of industrial and commercial companies to boost domestic production of goods. For appraisals see Martin, Anthony, Minding Their Own Business: Zambia's Struggle Against Western Control, Hutchinson, London, 1972, Chs. 4-6; Chaput, op.cit.
- 62 Martin, 'Minding Their Own Business' op.cit.
- 63 Perhaps, simple clothing materials, soap, pots and plates, hand-operated agricultural implements etc.
- 64 "Economic needs drew an increasing number of Africans to the towns, and the Copperbelt African population increased from 175,747 in 1951 to 252,764 in 1956 and 485,654 in 1963. Over the same years the European population had also grown from 21,907 in 1946 to 73,000 in 1959", quoted from Gertzel, Baylies and Szeftel, The Dynamics of the One Party State in Zambia, Manchester University Press, Manchester, 1984, p.119
- 65 For a study which sheds light on how the BSA control of Rhodesia Railways tied Northern Rhodesia to one route for supplies see Kanduza, Ackson, The Political Economy of Underdevelopment in Northern Rhodesia, 1918-1960: A Case Study of Customs Tariff and Railway Freight Policies, University Press of America Inc., Lanham, 1986.
- 66 Seidman, Ann, 'The Distorted Growth of Import- Substitution

- Industry: The Zambian Case', (1974) Journal of Modern African Studies, Vol.12, No. 4, pp.601-631, at p601
- 67 [Bates 1971, Henderson 1971, Gupta 1974, Berger 1974, Jones 1975, Gertzel 1975, Perrings 1979, Meebelo 1986, Kalula 1988]
- 68 Allen, Robert and Keaveny, Timothy, Contemporary Labour Relations, Addison-Wesley, Reading, 1983, p.17
- 69 Gertzel, Cherry, opt.cit., p.307
- 70 Simply stated the colour bar principle translated that no African should be elevated to a position higher than that held by a white person in the same working place. For a full discussion see Berger, Elena, op.cit., Ch 6.
- 71 Burawoy, Michael, 'The Hidden Abode of Underdevelopment: Labour Process and State in Zambia', (1982) Politics and Society, pp123-166, at pp. 142-3
- 72 'Consciousness, Conflict and Proletarianization: An assessment of the 1935 Mine Workers' Strike on the Northern Rhodesia Copperbelt', (1977-8) Journal of Southern African Studies, Vol.4, pp. 31-51, at p.45. See also the following official reports Northern Rhodesia, Commission Appointed to look into the Disturbances on the Copperbelt: Evidence Taken by the Commission (The Russell), Government Printers, Lusaka, 1935; Commission Appointed to look into the unrest in the Mining Industry in the Copperbelt in recent months (The Branigan), Government Printers, Lusaka, 1956. In addition, Henderson, Ian, 'Early African Leadership: The Copperbelt Disturbances of 1935 and 1940, (1975) Journal of

- Southern African Studies, Vol.12, No. 1, pp. 83-97, gives good background to colonial employment practices.
- 73 In Davis, Alexander, The Native Problem in South Africa, Chapman and Hall, London, 1903, p.75, quoted by Meebelo, 'African Proletarians', op.cit., p.9
- 74 *ibid.*, p.8
- 75 Burawoy describes the arrangement as creation of a "state within a state", Burawoy, op. cit pp.144-148
- 76 'The Household and the Mineshaft: The Gender and Class struggle on the Zambian Copperbelt 1926-1964, (1986) Journal of Southern African Studies, Vol. 13, No.1, pp36-56
- 77 The very essence of Professor Burrow's paradox that "African labour tend to remain unskilled because it is casual, but it is also tends to remain casual because it is unskilled". Quoted in Meebelo, 'African Proletarians', op.cit. p.167
- 78 Perrings, Charles, Black Mineworkers in Central Africa: Industrial Strategies and the evolution of an African Proletariat on the Copperbelt, 1911-1941, Heinemann, London, 1979, especially the conclusion on pp.233-242
- 79 For definition and review of literature on 'core' and 'periphery' in industrial relations see Pollert, Anna, 'The 'Flexible Firm': A model in search of reality ( Or A Policy in Search of a Practice)?', Warwick Papers in Industrial Relations No.19, University of Warwick, 1987.
- 80 For this section we follow the detailed accounts given by



- Meebelo, 'African Proletarians', op cit. p. 36
- 81 Perrings (1977), op.cit. p. 37
- 82 Meebelo, 'African Proletarians', op.cit. p. 34
- 83 Accumulation on a World Scale: A critique of the Theory of Underdevelopment, Vol.2, Monthly Review Press, New York, 1974, p.363 quoted in Meebelo, 'African Proletarians', op.cit. p. 3
- 84 See, Hall, Richard, The High Price of Principles: Kaunda and the White South, Hodder and Stoughton, London, 1969; Kaunda, Kenneth, Zambia Shall be Free, Heinemann, London, 1962; Mulford, David, C., Zambia: The politics of independence, 1957-1964, Oxford University Press, Oxford, 1967.

## CHAPTER THREE

### INDEPENDENCE POLICIES, OBJECTIVES OF WORKERS' PARTICIPATION AND THE ROLE OF LAW

#### Introduction

It has been suggested in the previous Chapter that Zambia's historical and political background is relevant to the understanding of the scheme of policies adopted after political independence. The country emerged from colonialism with a sense of grievance for the neglect she had suffered for much of the colonial period. There was political resentment directed against Britain, Southern Rhodesia and South Africa for their different roles in the history of Northern Rhodesia.

This Chapter builds on the above analysis in three specific ways. First, it seeks to demonstrate the link between workers' participation and the evolution of other Zambian policies in the economy. Secondly, it investigates the objectives of workers' participation policies, by which it is meant the purposes which were to be served by workers' participation in management decisions. Third, and finally, it examines the role to be served by the law in the attainment of the stated objectives of workers' participation policies. Before we come to these themes, however, it is necessary initially to chart briefly the sequence of events which preceded new economic and industrial policies in Zambia.

#### 1. Background

With independence in 1964, it was widely believed that for

once Zambia and its indigenous black people could be the focus of government decisions. More than that, that Zambians themselves would be able to make decisions and generally set goals according to which more could be done for the country and its people than was ever attempted by the different factions of colonial interests since 1895. The idea of participation therefore, if broadly defined in the context of the 1960s, might have covered almost every aspect of the Zambian social, economic and political life where, by virtue of political independence, Africans felt entitled to enter. Government policies too could be linked to those specific demands in the 1950s for human dignity, economic growth and social justice(1). For instance, the social investment of the Provisional and First National Development Plans (1965-1970), the adoption of the Philosophy of Humanism in 1967, the partial nationalisation of 1968-70, and the humanitarian and non-racial principles professed by the incumbent leadership of President Kaunda in foreign policy, especially in relation to the then white dominated Southern Africa, may all be interpreted as aspects sympathetic to notions of popular participation(2).

Yet, there is a specific way by which one can underline the interconnection between the development of workers' participation as a national industrial relations policy and the evolution of some of Zambia's economic policies in the 1960s. Workers' participation was announced in the country in December 1969. Set against the longer history of Zambia presented in



chapter 2, this policy was obviously something new and without any precedent(3). But within the immediate context of independence policies in the second half of the 1960s, workers' participation in management decisions was just another addition to a string of measures already under way by the Kaunda government to fight the remaining vestiges of colonial structures.

The starting point of those post-independence measures might be put more appropriately in 1967 when Humanism was proclaimed as Zambia's national Philosophy. But the sheer complexity of circumstances under which public policies evolve demands us to pay particular attention to the sequence of events. Therefore, before we examine how Humanism was adopted in 1967, we explain why 1967 was the year in which the independent Government was able to announce new strategies to fight vestiges of colonialism. Why indeed, given the severity of Northern Rhodesia colonial system, did it take some three years before fundamental decisions were taken in the economy?

Having remarked that national policies evolve in complex circumstances, it would be pretentious to assume that we can offer a comprehensive answer to the question posed. There are, however, three reasons why it may have taken the Zambian government until 1967 to decide on measures intended to break the social and economic structure inherited from colonialism.

First and foremost, it should be understood that Zambian independence came at the time it did in 1964 primarily because of the sudden collapse of the Federation of Rhodesia and

Nyasaland in December 1963. Until the independence of the West African state of Ghana in 1957, the idea of an independent, self governing black government in Northern Rhodesia was only vaguely articulated. The focus of nationalist politics for much of the 1950s was on opposition to the principle of Federation; demands for constitutional reforms to allow black political participation; campaigns to end discrimination; and for black advancement in industry, primarily the mines. The constitutional reforms of 1959 and 1962 which saw a measure of black participation in Northern Rhodesia were located within a framework that still respected overall British Crown protection. The independence of Ghana in 1957 gave a new dimension to African political struggles by opening the range of solutions which could be available to Africans suffering from colonialism.

Events in Northern Rhodesia were not indeed the only ones determining the pace of political change in Central Africa. Dr Hastings Kamuzu Banda, following on Kwame Nkrumah in Ghana, returned to Nyasaland in 1958 avowed to bring down the Federation of Rhodesia and Nyasaland and to proceed to African independence. Banda's political activities and those of his associates in Malawi, combined with those pushed elsewhere in the Federation to produce for the British government a general conclusion of 'black pathological opposition' to the Federation. This was at a delicate phase of the Federation experiment and at a time when discussions were under way to extend its lease in Central Africa. Forced to concede the

strength of black opposition to constitutional talks on the future of the union, the Federation of Rhodesia and Nyasaland was brought to an abrupt end in December 1963. It was precisely in this flux of political developments that Zambia proceeded to her independence in 1964, far ahead of other countries in Southern Africa.

In shifting strategies from one cause to another, it must be supposed that it was to be some time before a black government could put out its own ideas about independence policies and development goals. The next factor illustrates this point more plainly.

At independence in 1964, and for reasons capable of being deduced from the historical notes in the previous chapter, Zambia faced an acute shortage of the most basic resource for a modern national government, trained and qualified manpower. A countdown at the end of 1963, showed that the country had fewer than 100 university graduates, and less than 1,000 secondary school leavers in a population of 4 million(4). On the other hand, the administrative job before the independence government was considerable. It was not just the burden of system transfer from colonialism to independence, but also the parallel work of dissolving, gathering and distributing structures and resources of the defunct Federation of Rhodesia and Nyasaland. These exercises needed skilled and experienced public administrators, qualities that were lacking among supporters of the black government now in power(5). It is



understandable then that the government retained for the first few years of independence a Civil Service, Judiciary and Security Forces that were not Zambian in the true sense.

That, however, was not without political cost to the Zambian government. In the context of the country's long and immediate history, black political initiatives in the domestic sphere required to pass much tougher tests of reasonableness in order to arouse the support of those who filled important posts in the administrative structures of the country(6). In practice, the new government concentrated efforts on less contentious social infrastructure programmes, building, for instance, secondary schools in every administrative district, new colleges, including a national University, hospitals and roads connecting major population centres. These facilities were easy to justify because they were largely absent throughout the country in the colonial period(7). At the same time the government managed to push through legislation outlawing racial and poor practices in employment(8). Commissions of Inquiry were also instituted to advise on uniform salary structures(9). The main point, however, is that there were obvious limits to the extent of the social agenda within the context of the system of private capitalism historically established in Northern Rhodesia. The fact that those initially opposed to a black government in Central Africa held the preponderance of senior administrative posts constituted a real constraint to the actions of the independent government.

Thus, until such time as Zambians themselves could move into positions of decision making the status quo seemed very practical.

The final point is also essential to understand the timing of independence policies in Zambia. It is that barely twelve months after Zambian independence, on 11 November 1965, Ian Smith in Southern Rhodesia announced his Unilateral Declaration of Independence (UDI) from Britain. UDI, as was commented upon in Chapter 2, was a true White settler rebellion with real political ramifications in Southern and Central Africa. In Zambia, the economic aspects of the rebellion were even more pronounced. Rhodesia was not just the historical source of supplies as previously discussed. In 1965, the railways, airways and electricity (from the Kariba Dam) in Zambia were still jointly owned with Rhodesia. Coal for use in the mines and other industries came from Wankie mines in Southern Rhodesia(10).

The rebellion was thus both a political and economic dilemma for the new black government in Zambia. As a host nation to liberation movements in the region, the choices for Zambia were stark. Rightly or wrongly, the government responded with an urgent and expensive policy of 'Disengagement from the South'. This meant in principle opening new trading routes and also finding new suppliers from markets other than those established by the British South Africa Company and subsequent traders. The policies to diversify supply routes required, in

turn, the cooperation of experienced business operators who could reach out to the world and tap new markets. In the Zambian context of the 1960s, such policies could only be guaranteed by the Government itself and the established white and Asian business houses(11).

This background should establish, to some extent, why Zambia continued in the mould of colonial administration and attendant structures of social and economic control for some time after independence. The 'crisis' in industrial relations in the opening years of Zambian independence, to which students of labour in development have drawn our attention(12), were really a result of frustration with a black government that was perceived as having internalised the logic of the system it was supposed to fight(13).

## 2. Evolution of post-independence economic policies

By 1967, however, time had provided the government opportunity to think through her development strategies; the localisation of senior administrative posts had proceeded considerably; and the consequences of UDI had been weathered two years on. It was, as it were, time to address the fundamentals in the Zambian social and economic structure: the rural-urban gulf on the one hand, and the disparity between Africans and Europeans on the other. These are the issues that had been simmering since independence(14), and which achieved dramatic recognition in 1967.

There are two identifiable stages in the evolution of new



economic policies before workers' participation in industry can be seen to fill its place in the historical context. Firstly, there was the unveiling of the Philosophy of Humanism in April 1967. Secondly, there was the coming of the first two of a three-pronged strategy in Economic Reforms(15). It is after these stages that it is possible to picture the historical position of workers' participation policies at the Kitwe National Convention in December 1969. In the next three sections, we build up and illustrate these linkages.

## 2.1 Introduction of the Philosophy of Humanism

On 26 April 1967, President Kaunda presented, before the National Council of his ruling United National Independence Party meeting in Lusaka, his outline of the Philosophy of Humanism(16). From this date, there have been few explanations of Zambian policies that have failed to borrow liberally from the Philosophy of Humanism. We have seen in Chapter 2 that in the case of the industrial relations policy of workers' participation, Humanism is explicitly acknowledged as a factor in the adoption of that policy. Given such perspectives, it is essential to attempt some understanding of the Philosophy of Humanism in this thesis.

What is Humanism? What are its central features? Why was it adopted by President Kaunda as the national Philosophy in Zambia? The answers to these questions differ depending on who is commenting, why he is commenting and when he is commenting. This is so because perceptions of individuals and their

policies tend to be dated(17).

Strictly speaking, Zambian Humanism was to President Kaunda what was 'African Socialism' to Senghor of Senegal; 'Ujaama or Communitarism' to Nyerere of Tanzania; 'Communocracy' to Sekou Toure of Guinea; or 'Democratic, Socialist, Co-operative Democracy' to President Nasser of Egypt(18). Although presented as a national Philosophy, Humanism was, in essence, Dr. Kenneth David Kaunda's own personal contribution to the definition of national goals and the means of their achievement as he saw the situation in the 1960s. Therefore, seen within the generality of African Philosophies in the 1960s, Zambian Humanism reflected a new consciousness about African societies in the wake of political independence. As was in other African Philosophies (Ujaama, nearer home), Humanism emphasized selected tenets in African societies which were assumed useful in constructing priorities for national development from the ruins of colonial societies. The spirit of co-operation in economic production was specifically pointed to as something Africa could offer in a world posited by decolonisation. Alternatively, Kaunda's ideas in the Philosophy of Humanism may be presented as having grown out of the African challenge to the 'colonial social science' which depicted nothing worthy recording in the history of African societies for modern social and economic development(19).

The first two sentences to the preamble of Kaunda's first pamphlet on Zambian Humanism are instructive on these points:

The art of colonialism, if it is to succeed, means a coloniser sees to it that the victim is not only colonised politically, but also economically and culturally. This being the case, the act of political independence forms but the first part of the process of decolonisation(20).

This was the premise from which President Kaunda proceeded to present Humanism as a set of philosophical guidelines rooted in the Zambian cultural heritage, intended to unite the country in the common task of economic, social and political development. But in Humanism, President Kaunda identified several issues critical of colonialism and capitalism. Reminiscent of Social Reformers in 19th century England, Kaunda expressed fear of an 'invading money economy'. He warned of,

the powerful forces from the West which have been aggressively shattering in their individualistic, competitive and possessive approach(21).

As against these, Kaunda longed for a traditional 'mutual aid society', which was "organised to satisfy the basic needs of all its members"(22).

He praised a world where economic resources were owned and administered by chiefs and village headmen for the benefit of every one. He wrote nostalgically:

If a villager required a new hut, all the men would turn to forests and fetch poles to erect the frame and bring grass for thatching. The women might be responsible for making the mud-plaster for the walls and two or three of them



would undoubtedly brew some beer so that all the workers would be refreshed after a hot but satisfying day's work(23).

To these attributes, Kaunda added that the African society was accepting and inclusive:

The slow, the inept and incapable were accepted as any other member in community life provided they were socially amenable... In the best tribal society people were valued not for what they could achieve but because they were there... The success-failure complex seems to be a disease of the age of individualism - the result of a society conditioned by the diploma, the examination and the selection procedure(24).

Politically, Kaunda disapproved opposition based on 'haves' and 'have-nots', preferring instead,

a society in which the Chief as an elected or appointed leader of the people held national property like land in trust for the people, and was fully aware he was responsible to them(25).

Leaving aside President Kaunda's noted views on the ideal political system, the similarity between the basis of his ideas in Humanism and those of 19th the century Social Reformers are remarkably striking. Social Reformers saw as horrifying the way English industrialisation had undermined the old relationship between the rich and the poor, where it was said, each had known their place and duties. They criticised

the new social relationship of 'cash nexus', between labourer and employer where the former was left to starve if his labour was not required. Like President Kaunda, they longed for the organic, noncompetitive nature of pre-industrial society, and preferred the farm to the factory, the artisan to the manufacturer, social cooperation to competition and state legislation to laissez faire(26).

In the second half of the twentieth century however, a return to the old ways, especially the nostalgic past, was a far fetched cry. The independence struggle indeed was not fought on a slate demanding a return to a lifestyle known before the rule of the British South Africa Chartered Company. The President did not pretend he could achieve that return through the Philosophy of Humanism. To the contrary, he counselled that in reconstructing the country as it emerges from a non- money economy to a money status, "we will have to take into consideration the impact the use of money has made on our society"(27).

From the foregoing, it is not surprising to find that Zambian Humanism was conceptualised with three specific practical questions in mind:

- (1) in what respect the advent of a money economy will result in changes in the traditional society and social structure;
- (2) whether it is desirable that these structural changes be checked either in part or in full, and, if so;

(3) whether it is possible through policies implemented by government to impose the desired checks without also checking the growth of specialisation and of material wealth for our people(28).

It would seem evident from the nature of topics covered in Humanism that Kaunda was posing to himself and his country deep seated and difficult moral and practical questions to which there could have been no obvious logical answers. To date President Kaunda has not given any systematic answers to how a money economy can be lived in, and regenerated in harmony without exploitation of man by man, however defined. This is not to underrate the very considerable intellectual efforts he has put in over the years to explain the content and meaning of the Philosophy of Humanism(29). These notwithstanding, Humanism has remained to many,

a set of ambiguous statements, many mutually contradictory, and depending on voluntaristic and volitional rather than structural solutions to social problems(30).

Since Zambian Humanism was intended as a guideline to practical Zambian questions in the 1960s, it was perhaps inevitable that there would be no singularly acceptable definition of the contents of Humanism. 'Problems' at both individual and society level come in multifarious forms. It is therefore extremely difficult to aggregate all of them into one framework of thought. In fact, even if it was theoretically possible to do this at one time in history, there can be no



guarantee that those 'problems' will continue to be defined in the same way for individuals and the country in the future.

Bastiaan Fortman suggests a helpful way of approaching the Philosophy of Humanism in Zambia. According to Fortman, Zambian Humanism is not an ideology in the sense of being a given set of ideas which enable people to interpret life without thinking. Zambian Humanism, he explains, must be understood as part of "situation experiencing"(31). In effect, it is suggested that one has to place oneself in the shoes of Kaunda in the middle of the 1960s in order to be able to fully comprehend the development of his ideas in Zambian Humanism, at least in their original focus on harmony and the need to help each other.

For our purposes, we interpret 'situation experiencing' as standing for the specificity of the Zambian historical experience already discussed. Consistently, we find Humanism taking a form of angled nationalism in economic and industrial policies. Nationalism, which in the 1960s, reflected on the colonial experience and its consequences in the form of rural-urban poverty, and European-African disparity in resource possession.

## 2.2 The Economic Reforms 1968-70

It has been suggested above that the Philosophy of Humanism was merely Kaunda's way of analysing structural problems and the way they could be approached for solutions. The economic reforms that followed successively in 1968, 1969 and 1970 were the practical attempts by the government to seek solutions to

those problems identified in the country. By these economic reforms the government pledged to bring social and economic power into the hands of Zambians by means of 'radical measures', a phrase which, to some extent, spoke of an admission by the government that so long as the inherited structures of capitalism were permitted to remain commanding, they would restrict the range of solutions to how the African situation in Zambia might be improved. This perspective does not imply that economic reforms were undertaken simply because there was a well meaning black government. It does emphasise however that the nature of pressures on the state had altered in favour of the Africans. There was, for instance, pressure brought to bear on the state from the Zambian artisans and small businessmen(32), organised workers in urban areas(33) and the politicians with rural and poorer constituencies(34). It cannot be over emphasized too that the Zambian government was under considerable pressure to deliver to its black constituency in order to demonstrate to the rest of Southern Africa that blacks were fit to govern in territories with a substantial white minority.

The Philosophy of Humanism recognised these pressures on the Zambian state. It saw the African economic situation in Zambia essentially as a natural result of what had happened in Northern Rhodesia. Consequently, it its author postulated that, continued control of any economy by foreigners tends to impose limitations on freedom and independence and this

factor is a negation of humanism(35).

That the Philosophy Humanism was not the main explanation of the substance of government measures in the 1960s is made even more plain by President Kaunda's address in London to the Overseas Development Institute on 18th July 1968. This speech shows that nationalisation and the way it was undertaken in Zambia was not presented as being in pursuit of some abstract idea in human organisation revealed in the Philosophy of Humanism. Instead, it was presented as a practical attempt [never mind the simplicity] to reverse the colonial structures of social power. This is what Kaunda explained:

Zambia achieved independence on the 24th October 1964. At that time the people of Zambia took over political control, but the economy was dominated by foreign and resident expatriate business. How this came about does not need going into at this particular moment. All I need to say is that when Zambia achieved independence all these foreign and resident expatriate businesses were operated by foreign and expatriate people. No Zambian had been given the opportunity to make a career in business. No Zambians could be found in jobs above those of unskilled and semi-skilled workers in industry. It was obvious that during the time of the Federation the expatriate businessmen had chosen to create a closed shop very much like the European Mineworkers Union of Northern Rhodesia which had an agreement with the mining companies that only white people



could be employed in certain jobs on the mines(36).

### 2.3 Workers' Participation: Introduction of the Policy

It comes out from perusal of *Zambian Humanism* and the themes underlying economic reforms sponsored under its auspices that what was decisive in moulding the direction of *Zambian independence policies* was not the Philosophy of Humanism. There were instead, more specific reasons related to economic and social problems in the national system. The main reasons lay in the necessity to solve economic and social problems thrown up by previous structures and as demanded by internal pressure groups harbouring a nationalistic sentiment in the economy.

We suggest in this thesis that the industrial relations policy of workers' participation in management decisions was adopted in Zambia within the broad outline of policies fighting vestiges of colonial structures. More precisely, workers' participation originated with the general wrap of measures taken after 1967 with the specific instrumental aim of assuring indigenous participation in the economy.

The evidence is circumstantial. First, workers' participation was announced in December 1969 in the middle of economic policy pronouncements. Like those economic measures, workers' participation was introduced without prior public warning. Secondly, the occasion at which workers' participation was announced establish the generality of the policy background. The paper from which President Kaunda introduced workers' participation was entitled Rural Development, Incomes, Wages

and Prices(37). The apparent lack of focus on workers' participation itself suggests that this was something just incidental to what else the government was doing. Thirdly, the theme of President Kaunda's address on the subject of workers' participation was similar to those he delivered in announcing economic reforms. On economic reforms, President Kaunda complained that Zambians had been left out of businesses and there was need to take measures to redress the problem of economic disparity between expatriates and African Zambians. On workers' participation the question was: "Is it right that employees should be excluded from participating in the functions of ownership and management just because they do not belong to these privileged groups?"(38)

President Kaunda's reply was:

I believe not. It is therefore the intention of my Party and Government to change the whole system of industrial relations, so that our workers(39) can effectively participate in the decisions of management(40).

In a nutshell, that was the sequence of events pointing to how the idea of workers' participation arose in Zambia. It came as a general wrap of measures primarily directed at solving inherited structural problems. Humanism merely buttressed pre-conceived ideas which had their source in the Zambian colonial experience. President Kaunda thus ended his address on workers' participation with the following declaration:

Today we are taking a deliberate step forward into a new

future for our nation. There will be no going back. Our commitment to the restructuring of our society is fundamental and we mean that Humanism will not only be discussed but lived. The right of the people of Zambia to control their own destiny is not negotiable(41).

### 3. The Anomaly of the Workers' Participation Policy in Zambia

We attempted in the foregoing discussion to establish the linkages between Humanism, economic policies and the coming of the policy of workers' participation in management decisions. Before we turn to the assessment of the objectives for which the policy of participation was introduced, it is necessary to underline first the distinctiveness of the social and political circumstances under which the Zambian policy started. The way we go about it is to compare and contrast, at a general level, how the issues giving rise to workers' participation in Zambia differed from those raised in the West at around the same time.

To start with, the Bullock Committee on Industrial Democracy in Britain summarised in Chapter 3 of their report what they found as main the 'pressures for change' to Industrial Democracy. For the Bullock Committee, industrial democracy was made more imperative because of what had occurred in the British economy, and to the society since the second World War. New factors included the growth in power, size and complexity of business enterprises requiring urgent measures to enhance corporate accountability; greater union strength which could be disruptive to companies unresponsive to democratic



control; the growth of education and rising standards of living, factors which encouraged the erosion of differential attitudes; and events in other countries on participation, the European Economic Community in particular. These developments constituted a new era in the history of industrialisation which justified new initiatives encouraged by the state in the organisation and management of business companies(42).

Similarly, in North America, Nightingale has used the post-industrialism thesis to explain pressures for workers' participation in Canada. According to this author, the spreading effects of entitlement brought by the post war boom; changes in attitudes brought by dependence on work organisations; the erosion of consent to authoritative practices precipitated by working spouses; due process clauses in collective agreements; statutory regulations governing dismissals; unemployment benefits and society which offered many employment opportunities; the decline of public confidence in institutions of power such as government, business, trade unions, professions, church; and discrepancies between democratic rights of individuals as citizens and as workers are factors that have precipitated calls for workers' participation in management decisions in that country(43).

The impression one gathers from reading the Bullock Report and Nightingale is that workers' participation was demanded in the two countries, and the West in general, by the workers and society at large primarily because of the levels of industria-

lisation and the accompanying conditions of relative economic affluence. These conditions created certain expectations, and workers' participation was one way of fulfilling them.

However these explanations have not gone unchallenged. In the context of Britain, Harvie Ramsay(44) and Dennis Lawrence(45), among others(46), have challenged the central assumptions of the Bullock Report that there was any significant changes in the British economy and British society which justified public policies towards workers' participation in management decisions. These and other critics of workers' participation in Britain have pointed to events after election of a Conservative Government in 1979 as evidence that those changes chronicled by the Bullock Report were more apparent than real(47).

As for North America, where Nightingale writes from, it is interesting to note in that respect that the more affluent United States has not shown propensity to public policies towards workers' participation in management decisions. There has been, in fact, actual opposition to schemes of workers' participation conceived on West European lines(48).

From the nature of objections raised, it would appear that economic affluence in itself does not lead to policies of workers' participation in management decisions. This, however, does not mean that economic affluence is not a relevant factor in moving towards industrial relations policies of workers' participation. Research has shown that economic performance,

even at company level, is the important factual base upon which experiments on workers' participation can be introduced(49). It is this factor too, to some extent, which explains the paradox that workers' participation is best known in some of the most affluent countries in the West, Sweden and Germany [the former Federal Republic].

Therefore, it is true that it has been on the basis of strong industrial structures that workers and the trade unions, and possibly society, have advocated state policies to assure workers' participation in management decisions. From that perspective, the analyses of the Bullock Report and Nightingale are accurate in asserting that progress in industrialisation pushed workers' participation on the political agenda of developed countries. Whether or not workers' participation actually receive state endorsement in the form of legislation depends on other factors. Among these would be the disposition of governments, the history of state intervention in industrial relations, and the force with which those who favour such policies put their case in the political arena(50).

The Zambian experience we have presented is far from following the Western model. Firstly, whatever might be the contribution of economic affluence to schemes of workers' participation, it is clear from the history of Zambia and from complaints of contemporary politicians, that there was little substance in the country in the 1960s, as it is now, to ask for workers' participation on the basis of a society in



relative affluence. Zambian workers and the whole of the Zambian society were then, as they are now, afflicted by conditions of economic underdevelopment(51). Moreover, post-industrialism theories made little sense in a country contemplating building industrial infrastructures, and where non-capitalist production modes were both qualitatively and quantitatively significant.

The second point is that there is no evidence that the workers, the trade unions and the society at large consciously demanded workers' participation policies in Zambia. There is no suggestion either that there was even a significant majority of these sections demanding workers' participation in the country. Therefore, set against European developments, the Zambian participation programme was an anomaly. It started not as a result of pressure from the workers, the trade unions and society(52), but as an elitist construct suggested and implemented by the state. Why this was so has not been explained satisfactorily in many of the accounts of the origins of workers' participation in Zambia. Since our perspectives in this study are very much structured by the conclusions on the initial objectives of workers' participation in Zambia, it is necessary to assess in more detail why the state, not the workers and unions, asked for participation policy in Zambia.

#### 4. The Objectives of Workers' Participation Policy

What the Zambian Government hoped to achieve by introducing a policy of workers' participation cannot be answered in any clear cut mechanical terms. The reasons are much interconnected with the political and historical origin of post-independence policies. In Chapter 2 we considered four propositions canvassed by some writers in order to indicate the variety of perspectives on the origins and possible objectives of workers' participation in Zambia. As it turns out, no one has yet unearthed the precise background to President Kaunda's announcement of workers' participation in 1969. Until such time as someone stumbles across private Presidential working papers on the origin of workers' participation within the Zambian leadership in the 1960s, we may never know empirically the origins and underlying state motivation for the policy of workers's participation in Zambia. As it is, matters concerning the origins and objectives of workers' participation revolve around what meaning each person gives to public statements, and how one reads the history of workers' participation in the country. It is precisely this state of affairs which has given rise to different and competing paradigms of interpretation.

Writers like Fincham et al(53), and Kalula(54) who begin looking at workers' participation from the history of state-trade union relations in Zambia conclude that the aims of workers' participation was to control workers and the trade unions. This may well have been the motivation of the Zambian

government. Within the urban-rural matrix of Zambia's post-independence problems, the government in power had all the reasons to seek to control the demands of urban workers and trade unions. Robert Bates(55) demonstrated, in fact, that Zambian workers, like their counterparts elsewhere in the Third World in the 1960s, received enough lessons on their own version of 'the Sermon on the Mount': the role of trade unions in developing countries(56). Through appeals and exhortation, workers and trade unions were urged by government officials to work hard and obey supervisors in the hope that industrial production would increase to create material wealth for distribution. The question is: was the policy of workers' participation an integral part of this productionist theme?

We have come to the conclusion that there are serious problems with the interpretation that workers' participation was started in Zambia in order to control workers and the trade unions. This analytical approach, logical as it may be, is simplistic and also dated. There is more to the history of workers' participation in Zambia than state concern with labour discipline and production goals as this study aims to show. The simplicity of the labour control or 'incorporation' thesis can be demonstrated by reference to the arguments of Evance Kalula. Kalula asserts on one hand that "workers' participation through works councils has been a central feature of the state's strategy of labour incorporation", and on the other that "trade unionists have always publicly welcomed workers' participation



in principle"(57). If we are to understand 'incorporation' as government "attempts to constrain the labour movements' and the rank and file's post-independence aspirations and expectations"(58), surely the natural course for the trade unions would have been to publicly resent workers' participation policies and not to welcome them(59). This is the more so when it is also concluded that the trade union movement in Zambia has been strong since pre-independence days to the extent that the independent government has been unable to control it(60). Why, in that case, would a strong and supposedly rational body welcome measures central to its own control?

A more plausible explanation should be that workers and the trade unions welcomed the introduction of participation in management decisions because it held out a promise which, at any reading, could not have been the control of independent trade union and worker action. That would have been nonsensical on part of the trade unions. This apart, we shall show below that the incorporation thesis does not quite tally with the tenor of statements made contemporaneously by the government in 1969 to support the introduction of workers' participation(61).

A related point is that the incorporation thesis is dated. Much of the factual materials in support of it derive from the analysis of conflict between union leaders and politicians in the 1960s. Whatever might have been the merits of this background for the incorporation analysis, it cannot explain

the progress of the Zambian participation policy in the period after the "combative two cobras"(62) phase of the Zambian industrial relations in the 1960s.

For the above reasons and those to be elaborated in Chapter 8, we submit that the notion that workers' participation was introduced in Zambia in order to control workers and the trade unions is suspect. Yet, the other explanations that have been offered to explain the origins of workers' participation in Zambia are also not very convincing. To maintain, as President Kaunda and other supporters of official orthodoxy have done, that workers' participation was introduced in the country in order to carry out Humanism is not to convey anything at all because Humanism itself needs to be understood. Equally, to argue that workers' participation was introduced in order to further the political concept of participatory democracy reflects an uncritical acceptance of institutionalised views. The history of political democracy in Zambia undermines the credibility of this view thoroughly.

In the final analysis, to discover the objectives of the workers' participation policy in Zambia one needs to return to the circumstances of its founding history. Our research, as we have reported, shows that the history of workers' participation in Zambia is inextricably linked to the Economic Reforms that were being ushered in the country after 1967. The overall objective of these was to bring the operation of the Zambian economy into the hands of indigenous Zambians. The methods of

actually achieving this aspiration were circumscribed by a framework respecting domestic constraints, the rule of law and international order, forces to which an economy based on the sale of copper on the international market was particularly sensitive(63).

The result, we find, is a variety of strategies resorted to by the Zambian Government in order to achieve Zambianisation of the economy. First, there was partial nationalisation of existing medium and large scale foreign companies. This was undertaken on an incremental basis with general industrial and commercial companies in 1968, the mining industry in 1969 and financial companies in 1970. Second, there was the conscious creation of industrial and commercial companies by the state using copper resources. The majority of state enterprises in Zambia have grown through this route. Third, there were attempts at indigenization of capital through exclusive business zones. This in practice meant forcing foreign investors to sell their businesses to Zambians because the state, as the licensing authority, would not renew licences for non-Zambians in designated categories of business operations. Fourth, as we have argued, the policy of workers' participation in management decisions was but an integral part of the strategy to achieve overall Zambian participation in the ownership and management of the Zambian economy. These are the measures which served to mitigate and reduce the social and economic inequalities perceived to be present in the Zambian



society after independence. The extract from President Kaunda's speech in Kitwe provided in Appendix A leaves little doubt that past inequalities in social and economic power were the main stay of the industrial relations policy of workers' participation in Zambia.

Moreover, subsequent statements of policy have constantly returned to the elementary issues of social and economic inequalities manifested in the capitalist system of ownership and control as it had developed in Zambia. For instance, when the law of workers' participation was laid before Parliament some two years after 1969, the Minister of Labour said :

Mr. Speaker Sir, the Bill which makes an important milestone in the history of industrial relations in this country closely follows the guidelines made public by his Excellence the President at the Second National Convention held in December 1969, and at subsequent seminars held in Lusaka and Mufulira respectively in March 1970. The Bill is intended to give practical effect to the Philosophy of Zambian Humanism by introducing participatory democracy in decision making in industry(64).

It is a measure of how important worker's participation was in the overall strategy of 'wresting control'(65), that the Minister singled out workers' participation as though it was the main object of the Industrial Relations Bill, 1971. In fact, as we shall see in Chapter 5, workers' participation provisions occupied but a small corner of a ten part Bill whose

real business was to consolidate existing industrial relations laws(66).

For reasons which will be explained in detail in Chapter 6, there is a marked difference of emphasis between Kaunda's statement in 1969 and his analysis of the objectives of workers' participation in Chapter 13 of Humanism and a guide to its Implementation, Part 2, as the extended work is appropriately known. In the latter work, published in 1974, Kaunda visualises five postulates in the struggle for Industrial Participatory Democracy in Zambia:-

1. Workers and progressive managerial elements should seize control from a few who have organized themselves to exploit the working people.
2. Workers and progressive managers are charged with responsibility for managing the seized industries.
3. The seizure of the means of production by workers represents the initial step towards equity in the distribution of income.
4. Workers' participation in industries also places on them the moral responsibility to promote the interests of the peasants.
5. Workers' participation in industrial enterprises is essential for the realisation of the more global goal of promoting the interests of the common man(67).

President Kaunda's concerns with the need to bring about fundamental changes in the ownership and management of Zambian

industries come out well in the above statements. The only thing that is new is the style of communication which is rather different from that he used when he wrote Humanism Part 1 in 1967. Then his model of social organisation was the African village. In 1974 he demonstrates the awareness of much higher ideological positions in the capitalist system of production. Kaunda's thesis, however, does not seem at all to be directed at the trade unions and workers. A 1982 reinstatement of the purpose for workers' participation in Zambia was even more straight forward.

The objectives of industrial participatory democracy in Zambia is to bestow upon every worker the right to fully participate in the control and management of the enterprise in which he depends for his livelihood(68).

To summarise, it is not easy to state why workers' participation was introduced in Zambia. Lack of prior detailed public and private discussions of workers' participation before it was promulgated as a national industrial relations policy makes it all the more difficult to go beyond speculation. However, it is our view in this thesis that the original objectives of workers' participation in Zambia are best understood in relation to the search for the integration of Zambians in the national economy, and in the processes of company decision-making in particular. This interpretation is consistent with the general background history of independence policies; specific official statements and above all - the



legislative method of introducing workers' participation in management decisions. We present the final point below.

#### 5. The Role of Law in Workers' Participation Policies

As well as asking for workers' participation in management decisions, President Kaunda called for the enactment of laws to implement that policy in Zambian industries(69). What we must ask now is why did the President call for laws to implement workers' participation in management decisions? That question does not assume significance unless there are other ways in which workers' participation could be brought about without recourse to legislation. This, in turn, begs the question whether the other ways which do not involve enactment of laws should be understood and interpreted in the same way as the schemes that are undertaken with recourse to the legislative method.

In short, is there anything significant in the use of law to implement policies of workers' participation in management decisions? This we suppose is a general question about the use of law by the state to implement public policies. But it is one which assumes importance with regard to workers' participation in management decisions because this particular concept is an unequivocal one, in the sense that there is no agreement as to how it should be understood and interpreted more precisely.

For instance, is a works council at Rover Motors in the United Kingdom the equivalent of a similar institution at a sister company in West Germany where companies are obliged by

the 1952 Works Council law to create works councils? Take another example. Is the putting of two union members on the board of Ford Motor Company in the United States the same act as when two such union members are put on a Volvo Company board in Sweden in compliance with that country's legislation of 1972?

From a functionalist standpoint there seems to be no reason why they should not be considered equivalents, especially if it could be shown that the functions they perform in their respective industrial relations systems are the same(70).

But sound as the logic may be, such a result would raise questions about the meaning of law; the role of the state; and circumstances when the latter invokes the instrument of law to realise public policy objectives. Having spent considerable time on Kaunda's statements of purpose, it is not necessary to digress into these issues. It is sufficiently clear from Kaunda's statements of purpose that he envisaged some radical changes in the way business companies were organised and governed in Zambia. So that when he said "our legislation must be such that it creates an atmosphere which will be conducive to the creation of a man-centred society"(71), he saw the role of law in that process as the agent of social change in the Seidmanian sense(72). That is, through the instrumentality of law, the state was the organ possessed with sufficient capacity, resources and legitimacy to undertake the structural changes in the governance of business companies seen then as

essential to the process of change he was calling for. Law then was to act as a "conveyor of new values..., a tool of education and reform"(73). In short, law was intended to provide both the substance of change and the climate legitimating social changes in industry. Kaunda admits to this interpretation of the role of law in industrial policies when he explains that,

From the very onset (i.e of workers' participation in Zambia) we have been very conscious of the importance of law in the transformation of society. It is this commitment to law that led us as early as 1971, to enact the Industrial Relations Act, Cap. 517 of the Laws of Zambia(74).

In view of what we have said in section 3 about the anomaly of the political origin of workers' participation in Zambia, it is useful to complete this part of the Chapter with one important note. This is that it is at the level of the Zambian view of law as an agent of change in the legal position of employees in decisions of companies that there are real resemblances with the European and Scandinavian approaches to workers' participation and industrial democracy. In Chapter 5 we shall show that in these countries, as in Zambia, workers' participation laws were promoted as aspects of a political challenge to the liberal image of the law of companies. Thus, from a different background, and different definition of problems, Zambia found herself emulating the creative role of the state in Europe in formulating rules supporting workers in



the governance of business companies.

To be sure, this was not just a case of emulation as one might want to imply from the discussions of Shimaponda. To the contrary, participation laws European style fitted very well with the Zambian governments' pronouncements on 'unacceptable capitalist laws and management philosophies'. The new laws, Kaunda promised,

will for the first time abolish the hated system of master and servant. For the first time workers and managers will be equal partners in industry. This means that the coming of age of workers will at last be legally recognised(75).

Despite this, it is the case that the nature of laws envisaged by the Zambian government in 1969 was a comprehensive system of laws known then only in West Germany and Austria. These were the two countries who had in 1969 legislation on works councils and board of directors affecting private enterprises similar to what Zambia was proposing. In the rest of Europe such laws were still under discussion, materialising notably in Denmark, Norway, the Netherlands and Sweden in the early 1970s(76).

The fact that Zambia was able to propose legislation of that quality in 1969 ahead of many developed countries may be a factor to be considered in its own right in the search for the political origin of workers' participation in Zambia. To be taken into account too is the nature of government communication in 1969. When President Kaunda introduced the subject of

workers' participation, there was no suggestion to the labour market parties to consider the possibility of introducing schemes of workers' participation in management decisions. Rather, the information then was that the government had decided on both the adoption of a policy of workers' participation, and on legislation as the means by which to achieve the objectives of that policy.

We suggest that such a unilateral approach to law on a matter of industrial relations significance is consistent with the perception of law as an instrument of social change towards goals defined by those who, in any system, have capacity, resources or legitimacy to bring about the desired changes. Here, we have argued, that the goal, under the auspices of the Philosophy of Humanism, was to bring economic and social power into the hands of Zambians through, in this particular case, the transformation of the law of decision making in industry.

### Summary and Conclusions

The object of this, and the previous Chapter, was to study how it was that Zambia adopted laws and policies regarding workers' participation in management. Three principal questions have guided the discussion presented. 1) how did the idea of workers' participation arise in Zambia, 2) what purposes were to be served by workers' participation policies and 3) what was to be the role of law in the attainment of those objectives?

Largely because workers' participation policies underpinned by laws are political in content, we believe that any attempt

to comprehend their development in Zambia must take as its starting point historical and political background to post-independence Zambia. It is a general proposition that colonial experience tends to guide the practice and conceptualisation of solutions to problems in newly independent states. At the same time, the attempt to delve into Zambia's history was an acknowledgement of the often encountered statement that each scheme of workers' participation in industry must be seen within the context of the historical, economic and social conditions of the country concerned. Our preliminary examination of the different perspectives on the origins of workers' participation in Zambia confirmed the relevance of the approach. Humanism, Participatory democracy and state policies towards trade union all stressed the relevance of local political elements.

Our underlying argument in the discussions has been that workers' participation policies were introduced in Zambia as part of measures to assure Zambian control of the economy. In outlining in the previous Chapter colonial developments in important areas of political evolution; the development of modern economic structures; and labour relations, we highlighted the issues which galvanised and concentrated the minds of African political leaders in Northern Rhodesia. The evidence on subordination and marginalisation of both Africans and Northern Rhodesia within the double barrelled colonial machine of Northern Rhodesia seemed incontrovertible. What



remained was to show the connection between generalised grievances and the specific development of workers' participation in Zambia. That was the starting point of the present Chapter.

The main point here was that the industrial relations policy of workers' participation came along with Economic Policies announced by the Zambian government after the promulgation of the Philosophy of Humanism in April 1967. Humanism, we stated, is best understood in terms of structural differences in social and economic power to which President Kaunda was addressing himself in defining goals for national reconstruction. Thus, the nationalisation and the specific form it assumed in Zambia was directed at redressing imbalances received from the colonial order.

It has also been our argument that development of workers' participation in Zambia related to the specific instrumental aim of assuring indigenous participation in the national economy, and managerial decisions in particular. The striking factors were more than the sequence of events. A commitment to moral and philosophical principles as well as the unilateral manner with which the state intended to bring about workers' participation are all factors pointing that the Zambian state was in an area where popular support from the ensemble of different factions in the Zambian society in the 1960s was assumed. President Kaunda's statements of purpose constantly underlines the connection between workers' participation and

broader goals to assure Zambian control of the economy. Consistently too, we have understood the role of law in workers' participation policies as to assist in the transformation of the legal position of employees in the management of private companies.

The above findings on the historical and political origin of the Zambian workers' participation policy are consistent, to a greater extent, with the hypothesis put forward by Paul Blumberg in 1968. Hypothesising the future of workers' management, he pointed out that the political dimension of capital would be one of the major forces to push workers' management on the political agenda of developing countries. "In many parts of the Third World today", he wrote,

there is an analogous repudiation of economic elites. On a fairly wide scale there exists an all pervasive anti-capitalist ideology, a partial consequence of the experience of these nations with Western imperialism in the nineteenth and twentieth centuries. Capitalism has been widely repudiated simply because it is regarded as synonymous with hated imperialism, of which the peoples of the Third World were the chief victims(77).

What we maintain is that the Zambian case fits the scenario described by Blumberg in which workers' participation are driven more by political economic policies than the factors of the levels of industrialisation and actual employment situations. It does not follow from this argument however that the

political aim of assuring indigenous participation in the economy was the only relevant consideration in the development of workers' participation in Zambia. Such an exclusionary explanation would probably do injustice to many other Zambian statements on the origins of workers' participation, including the four propositions previously introduced. We should therefore be understood as having laid emphasis rather than excluding all other explanations. Workers' participation indeed is too much of an amorphous concept to be so restricted.

For the purposes of making progress, what has emerged is that workers' participation was proclaimed as a national industrial relations policy in 1969. The hallmark of the policy lay in the nature of laws that were to be enacted after 1969. Before we come to these laws, we must ask what framework was built by the Zambian authorities to propel workers to participate in management decisions as was envisaged for them in 1969. In other words, it is necessary initially to examine the contextual setting of workers' participation because this will structure subsequent assessments of the laws that were introduced.



### FOOTNOTES TO CHAPTER THREE

- 1 See in this respect International Labour Organisation, Human Dignity, Economic Growth and Social Justice in a Changing Africa, (Report of the Director General), ILO, Geneva, 1973.
- 2 Recollections of Zambian aspirations are found, among other places, in Zambia, Towards Self Sufficiency Through Development: Progress Report (1970), Tabled by His Excellency, The President during the Address to Parliament on the Opening of the Third Session of the Second National Assembly on 8th January 1971, Lusaka; Zambia, 6 years After, ZIS, Lusaka.
- 3 This statement would not be strictly true if we included in the definition of workers' participation all attempts to involve workers in consultation and information schemes initiated by employers. Such schemes had been attempted at least since the 1950s. See Beele, E.M., Toward Effective Workers Participation in Zambia, LLM Thesis, University of Wisconsin-Madison, 1983, Ch. 4, pp.118-9
- 4 Manpower: A report and Statistical Handbook on Manpower, Education, Training and Zambianisation, (1966) quoted in Martin, Anthony, Minding Their Own Business, Hutchnison, London, 1972, p.49.
- 5 The militant image of the ruling party, U.N.I.P., during the closing years of the struggle for independence could not have helped attract sympathy from the non-Zambians.

Harries-Jones, Peter, Freedom and Labour: Mobilisation and Political Control on the Copperbelt, Basil Blackwell, Oxford, 1975, for accounts.

- 6 "...There was every every reason to believe that among Zambia's Europeans were a number of spies and others whose loyalties lay with those governments to the South which the Zambian Government identified as threats to its security. And the instruments which would normally be expected to provide protection were untrustworthy, too, the army and police being heavily staffed by expatriates whose loyalty Zambia's leaders doubted..." per Pettman, Jan, Zambia: Security and Conflict, Davison, Blandford, 1974. Ch 1, p.27
- 7 A useful source of statistical comparisons of colonial and independence achievements is Zambia, Ten Years After Independence, Z.I.S., Lusaka, 1974.
- 8 Principally, Workmen's Compensation Act, 1964; Apprenticeship Act 1964; Employment Act 1965; Minimum Wages, Wage Councils and Conditions of Employment Act 1965; Factories Act 1966; Zambia National Provident Fund Act 1966; and Employment of Women, Young Persons and Children Act, 1967. For comments on these developments see particularly, Gertzel, Cherry, 'Industrial Relations in Zambia to 1975' in Damachi, Ukandi (Ed.) Industrial Relations in Africa, MacMillan, London, 1979, pp. 307-359, at p. 322; 335-338.
- 9 For instance, Brown Commission (Mining Industry, 1966) and Hudson Commissions (Public Service, 1966), Kalula, Evance,



op. cit., for historical notes on different Commissions.

10 For detailed discussion of Zambia's dependence on economic ties with the South see Martin, Anthony, op.cit., Chs. 2-3

11 It has been suggested that the grumbling of business houses for having been put to trouble over supply routes is what the Zambian Government interpreted as unco-operative attitudes from expatriates justifying nationalisation measures. See again Martin, Anthony, op. cit., Ch. 4

12 Particularly, Bates, op. cit., Kalula, Evance, op. cit. See also the source in footnote 13 below

13 "These repeated appeals by the U.N.I.P. Government to the workers to put the interests of the nation above their own, and the strenuous efforts it made to attract foreign investment, seem to be a serious contradiction in the policies of a party which, in alliance with the peasants and the working class, had waged a vigorous and relentless struggle against monopoly capitalism and its offshoots of colonialism, imperialism and fascism", Meebelo, Henry, op. cit., 'Epilogue', Ch. 15, pp.535-536.

14 Meebelo's Epilogue, op.cit., tells much of the simmering problems which could not be satisfactorily addressed by marginal adjustments to salaries or changes in legislation. Not only were the changes introduced by government subjectively mediated by employers, but also such changes could not affect those not in employment.

15 We use the phrase Economic Reforms to refer to a series of decisions taken by the Zambian Government between 1968-1970



which changed, to some extent, the landscape of economic control in Zambia. While nationalisation is perhaps the best known, other exercises like the Referendum of 1969 which paved the way for compulsory land acquisition are no less important decisions of the period.

16 This original pamphlet is now Humanism and a Guide to Its Implementation Part 1, a copy of which is reproduced in Fortman, Bastiaan de Gaay (Ed), After Mulungushi, East African Publishing House, Nairobi, 1969, Ch. 2

17 For perspectives see Cross, Sholto, 'Politics and Criticism in Zambia: a Review Article', (1974) Journal of Southern African Studies, Vol. 1, No.1 pp.109-115.

18 We follow here the description of African 'Socialisms' given by Blumberg, Paul, Industrial Democracy: The Sociology of Participation, Constable, London, 1968, Ch.1, p.12

19 For a paper which discusses how reactions to colonial treatment of Africa shaped intellectual discourse on the continent see Mkandawire, Mamdani and Wamba, dia Wamba, Social Movements, Social Transformation and the Struggle for Democracy in Africa, (Working Paper 1/88), Council for the Development of Social Research in Africa (CODESRIA), Dakar, Senegal, 1988.

20 Kaunda, President of the Republic of Zambia, 'Humanism in Zambia', in Fortman, 'After Mulungushi', op.cit. Ch. 2, p.9

21 Kaunda, 'Humanism in Zambia', op.cit., p.9

22 *ibid.*

- 23 *ibid.*, p. 13
- 24 *ibid.*, p. 14
- 25 *ibid.*, p. 10
- 26 For a collection of useful information on these aspects see Workers' Conditions in the Victorian Age: Debates on the Issues from 19th Century Critical Journals, Gregg International Publishers, Ltd., London, 1973, Vols., 1-4. Also noted in Beele, E.M., *op. cit.* Ch 1, Footnotes 1, 7.
- 27 Kaunda, 'Humanism in Zambia', *op.cit.*, p. 11
- 28 *ibid.* At page 19 a more poignant question is asked: What does Humanism mean economically? The answers Kaunda suggests turns on who owns the means of production, who decides what shall be produced, and to whom will the results of production go?
- 29 See his Humanism in Zambia and a Guide to Its Implementation Parts 1 and 2. In general, President Kaunda has used almost every public occasion to explain the meaning of Humanism.
- 30 Gertzel, Cherry, Baylies, Carolyn and Szeftel, Morris, The Dynamics of the One Party State in Zambia, Manchester University Press, Manchester, 1984, Ch.1 p. 10
- 31 Fortman, 'After Mulungushi', Ch.1, at p. 3
- 32 Baylies, Carolyn, Zambia's Economic Reforms and Their Aftermath: The state and the Growth of Indigenous Capital, (1982) The Journal of Commonwealth and Comparative Politics, Vol.20, 3, pp. 235-263; Baylies and Szeftel, 'The rise to political prominence of the Zambian Business

Class', in Gertzel et al, The Dynamics of the One Party State', op. cit., Ch. 3

33 In addition to sources indicated in Footnotes 12 and 13 above, see also, Gupta, Anirudha, 'Trade Union and Politics on the Copperbelt', in Tordoff, William (Ed.), Politics in Zambia, Manchester University Press, Manchester, 1974, Ch. 8

34 Gertzel et al, 'The Dynamics of the One Party State', op.cit., especially Chs. 6 and 7

35 Kaunda, 'Forward' to Fortman, 'After Mulungushi', op.cit.

36 Kaunda, President of the Republic of Zambia, 'Plea For Understanding', in Fortman, 'After Mulungushi', op.cit., Ch.10

37 Report of the Second National Convention on Rural Development, Incomes, Wages, and Prices in Zambia, Kitwe, December 1969, Government Printer, Lusaka, 1970 [ Extract from the Report now produced as Appendix A to this study]

38 See, Appendix A

39 Our emphasis.

40 See, Appendix A

41 *ibid.*

42 Department of Trade, Report of the Committee of Inquiry on Industrial Democracy (Bullock Committee), Her Majesty's Stationary Office, London, 1977, Ch. 3

43 Nightingale, Donald, Workplace Democracy- An Inquiry into Employee Participation in Canadian Work Organisations, University of Toronto Press, Toronto, 1982



- 44 Ramsay, Harvie, 'Evolution or Cycle? Workers' Participation in the 1970s and 80s', in Crouch and Heller (Ed.), International Yearbook of Organisational Democracy Vol. 1: Organisational Democracy and Political Processes, John Wiley and Sons, Chichester, 1983, Ch. 10, pp.203-225.
- 45 Lawrence, Dennis, The Third Way- The Promise of Industrial Democracy, Routledge, London, 1988, especially Ch. 7
- 46 In particular, Sirc, Ljubo, 'Workers' management under Public and Private Ownership', in Can Workers Manage, Adam Smith Institute, 1977.
- 47 For contrasting British perspectives see McCarthy, William, The Future of Industrial Democracy, Fabian Society Paper Number 526, London, 1988
- 48 Garson, David, 'Paradoxes of Workers' Participation', in Garson, David (Ed.), Workers' Self Management in Industry: The West European Experience, Praeger Publishers, New York, 1977, pp.214- 230, at 25; Khune, Robert J, Codetermination in Business: Workers' Representation in the Boardroom, Praeger Publishers, New York, 1980, pp. 110-111.
- 49 For instance Cressey et al, Industrial Democracy and Participation: A Scottish Survey, Great Britain, Department of Employment Research Paper No. 28, November 1981, where the researchers found that both unions and managers saw economic efficiencies in firms as the prerequisite of participation programmes.
- 50 See Marsden, David, Industrial Democracy and Industrial Control in West Germany, France and Great Britain, United

Kingdom, Department of Employment Research Paper No.4, 1978; Summers, Clyde, Workers' Participation in the U.S. and West Germany: A Comparative Study from an American Perspective,(1980) American Journal of Comparative Law, Vol. 28, pp.367-392.

51 Hoeven, Rolph Vann Der, 'Zambia's economic dependence and the satisfaction of basic needs',(1982) International Labour Law Review, Vol.121, No.2, pp. 217-231; David, Todd, and Shaw, Christopher, 'The informal Sector and Zambia's Employment Crisis',(1980) The Journal of Modern African Studies, Vol. 18, No.3, pp. 411-425

52 For an analysis which attempts to explain why Third World elites would want unilateral actions, see Saasa, Oliver Saasa, 'Public Policy Making in Developing Countries: The Utility of Contemporary Decision Making Models',(1985) Public Administration and Development, Vol.5, No. 4, pp. 309-321.

53 Fincham, Robin, and Zulu, Grace, op. cit.

54 Kalula, Evance, op.cit.

55 Bates, Robert H., op.cit.

56 For studies on this theme see Damachi, Ukandi, The role of Trade Unions in the Development Process, Praeger Publishers, New York, 1974; Milieu, Bruce, The Political Role of Labour in Developing Countries, The Brookings Institute, Washington DC., 1963.

57 Kalula, op.cit., p.214, 231,

58 Kalula, op. cit., p. 30



- 59 For example, Italian, French and the Trade Union Congress in Britain before 1974, expressed public opposition to workers' participation policies when they saw these as not in their interests. For notes see Beele, E.M., op.cit. Ch. 2 pp. 51-63. Also, International Labour Organisation, Workers' Participation in decisions within undertakings, Geneva, 1981, pp. 108-109.
- 60 See Conclusions to Kalula, Evance, op. cit. For an earlier criticism of these perspectives of Zambian labour in relation to the power of the state, see Burawoy, Michael, Another Look at the Mineworker, African Social Research, (1972), Vol.14, pp. 239-287
- 61 See Appendix A. We should indicate, however, that because we refer to President Kaunda's statements it does not mean that we are oblivious to the fact that politicians can say one thing and yet mean another. Our contention rests on the totality of government programme, which gives Kaunda's statements a measure of consistency.
- 62 This industrial relations image of 'two cobras facing each other', was used to characterise the racial conflict in work places in the early years of independence, when it was common for groups of employees to come together and demand that a particular white manager 'should pack and go' for either racist remarks or other abusive language. See Meebelo, Henry, Main Currents of Zambian Humanist Thought, Oxford University Press, Lusaka, 1973, p.103
- 63 In addition, Zambian independence was obtained in an



orderly and legalistic manner compared to her neighbours. The pressure to observe rules of international law were thus strong. The government pinned its case for reforms on the strength of moral arguments for indigenous participation. This is pointed by the lengths to which the Government went to find mechanisms of take over that could be defended in international circles, as Kaunda attempted in his address to the Overseas Development Institute in 1968.

64 Zambia National Assembly Hansard, 1971, p.228-259, at p.228.

65 Following Martin, Anthony, op.cit .

66 The Industrial Relations Act, 1971 consolidated the Trade Unions and Trade Disputes Act and Industrial Conciliation Act. See s124.

67 at pp. 98-99.

68 Report on the Three-Day Copperbelt Province Workshop on the Role of Employers and Managers in the Implementation of Workers' Participation in Decision-Making in Zambia, 12 to 14 December 1982, Mindolo, Kitwe, IPD, Lusaka, p.2.

69 Appendix A.

70 See in particular the American perspective in Summers, Clyde, op.cit.; Strauss, George, 'Workers' Participation in the United States', in Davis, Ed and Lansbury, Russell, Democracy and Control in the Workplace, Longman Cheshire, Melbourne, 1986, pp.311-331

71 Appendix A.

- 72 Kalombo, John, 'The Legal framework of Workers' Participation in Zambia', in Report on the Provincial Workshop on Workers' Participation in Decision-Making in Zambia, 15 to 17 May, 1985, Chipata, IPD, Lusaka, pp.27-36, at 29
- 73 Seidman, Robert, The State, Law, and Development, St. Martin's Press, New York, 1978 , Ch. 1
- 74 See p.4 of the Report cited in footnote 68.
- 75 Appendix A.
- 76 For a useful description of European laws on participation in the 1970s see Kolvenbach, Walter, Employee Councils in European Companies, Kluwer, Deventer, 1978; International Labour Organisation, 'Workers' Participation in Decisions', op. cit., especially Chs., 6 and 7.
- 77 Blumberg, Paul, Industrial Democracy: The Sociology of Participation, Constable, London, 1968, Ch. 1 at p.11.

## CHAPTER FOUR

### THE CONTEXT OF WORKERS' PARTICIPATION: A FRAMEWORK FOR ANALYSIS

#### Introduction

In the preceding chapter we came to a conclusion on how the state in Zambia began industrial relations policies of workers' participation. We may now proceed to examine the context in which the development of these policies was supposed to take place in the 1970s. After defining the meaning and relevance of 'context' in section 1, sections 2-5 discuss, in turn, each of the four contextual variables isolated for analysis in this study, namely political, economic, industrial relations and legal contexts. The sixth, and final section, provides the summary and concluding perspectives.

#### 1. The importance of Context in law and industrial relations

It has been one of the main findings of cross-national empirical research that workers' participation policies are enhanced by the presence of certain underlying conditions in national systems. Among the important factors deemed essential to participation policies are the nature of the political and economic systems, the disposition and behaviour of employers, organisation and the attitudes of trade unions, the role of the state and legal systems, and the history of industrial relations(1). These can be summarised in two principal categories: (A) favourable governmental and legislative measures, and (B) economic infrastructural factors. Altogether, the 'external support systems' constitute the context of workers'



participation policies. They are the social and material forces which can determine whether or not participation policies become an enduring feature of industrial relations, and with what quality. However, the ways these underlying factors interact to influence outcomes on participation policies cannot be understood apart from the specific historical contexts of individual countries.

In the instant, the social and economic history of Zambia sketched so far makes it almost self-evident that the development of workers' participation in the specific direction sought by the government could only proceed on the basis of certain post facto assumptions, the principal one being that the Zambian government would be able to create conditions to bring about Industrial Participatory Democracy. To be sure, the government promised to enact comprehensive legislation. But, we think that the introduction of arrangements to change root and branch of rules governing decision-making in companies, as was sought and indicated by government declarations in 1969, required more than intellectual and technical skills on the part of the state to enact appropriate and effective legislation. There was need specifically for other 'infrastructural' conditions relevant especially for the operation of law and industrial relations. There are two considerations which lead us to this assertion: the lack of prior consultation by the state with other labour market parties, and limitations of law itself in industrial relations.

On the former, we know from our discussion in Chapter 3 that although workers' participation was presented by President Kaunda as an Industrial Relations Policy, there had been a failure on the part of government to consult with employers and the trade unions prior to the announcement of this new policy. Many European governments in the 1970s attempted, through Commissions of Inquiry and other discussion arenas, including a referendum in Switzerland in 1976, to secure a minimum consensus between shareholders, managers, unions and workers on the kind of system of workers' participation to adopt, its aims and objectives if at all. The Zambian government, on the other hand, sought to dispense with these elementary requirements of prior explanation and consultation on a major industrial relations policy initiative(2). The 1969 policy statement was conclusive on central issues of participation structures, and the aims and means of attaining them. What had remained was to enact the law, and the role of trade unions and employers was conceived of as working with the rules once they were in place.

The argument is that while that political behaviour might have fitted the circumstances in which this particular industrial relations policy was developed in 1969, such an obvious contempt of the primary parties to industrial relations put a premium on the state to introduce conditions which would enable her to transform, on a longer term basis, the roles of owners, managers and workers in the industrial and commercial system of Zambia. At the minimum, the state needed to secure that the



owners of companies, managers, the workers and trade unions went along not only with the general tenor of participation policies, but also with the specifics of the root and branch approach to participation legislation. The resources and skills required to achieve even the barest consensus within these groups in the context of a developing country should not be underestimated(3). In a country still riddled with racial attitudes between the contending forces of industry, where poverty, unemployment, lack of education, and a generally domineering culture were the driving forces of government social policies, the question whether the state would be able to bring about a shared understanding about what was intended and what was sought to be achieved from workers' participation has to be asked carefully.

Secondly, even assuming that what was needed was only intellectual and technical resources to draft comprehensive and appropriate legislation, there is no reason to suppose that the operation of workers' participation laws in Zambia would not suffer from the limitations of legal rules. The idea is that both in legal and industrial relations spheres, issues of political and economic content, as workers' participation policies are, are often decided by factors other than the elegance of legal rules. This is so not because law is not important, but that such subjects are the very essence of social, political and economic expedience(4). The emergence of contextual syllabuses in law faculties like the ones offered at



Warwick University in the United Kingdom testify generally to the importance of contextual factors in appreciating the value of legal rules and institutions(5). At another level, the story of the British Industrial Relations Act 1971 illustrates what can go wrong when laws are introduced with scanty regard to prevailing attitudes in the industrial relations system, broadly defined(6).

This suggests that in addition to enacting legislation approximating to declared policy objectives, the state actually needed to create, if they did not exist, conditions to support the development of the workers' participation policies announced in 1969. Thus, in this Chapter we shall examine possible underlying factors which would have provided such support. We do not seek a comprehensive explanation of the working of structural and institutional arrangements in Zambia, but rather to identify the most salient aspects of the Zambian system in the 1970s which can contribute to our understanding of the context in which participation policies were developed. Those factors actually focussed upon are: (1) the political process; (2) the economic structure; (3) industrial relations history and development; and (4) the legal system of company organisation and decision-making. The meaning and relevance of these in the Zambian context will be clarified as each is considered in turn in sections 2-5.

## 2. Political Process and Workers' Participation in Zambia

### 2.1 The Meaning and Relevance of the Political Process to

### Workers' Participation Policies: A general outline.

The establishment and maintenance of the political process in any country belongs in the main to the realm of the state. The state, as a historical institutional system of social and political control, sanctions the basis on which power in society is acquired, distributed and exercised. But because the state is not just an abstract entity, but a social institution composed of human agents, these can use their superior access to the means of control in society to alter the logic of existing arrangements either in line with their wishes or in response to pressures which are recognised and respected. In other words, state policies are inextricably linked with the subjective interests, the value orientations and the ideological convictions of the individuals who occupy the most important positions in the state system at a particular time in history(6a). In States and Societies, David Held et al also bring out materials which support the view that the concept of state "is a multi-dimensional phenomenon, the nature of which varies across time and space"(7). Similar conclusions have been drawn too by those who have considered the nature and meaning of the 'Third World State', thought previously to have been a special breed because of its alleged late development(8).

The intimacy between the concept of state and the way power is exercised in society means that we should not understand political process merely as the organisation of political parties contending for state power. Also relevant to



the political process are the ways and extent to which those parties and the individuals who win power in the state use it to intervene in matters of civil nature. These may concern industrial relations, company organisation and control or the exercise of citizenship rights(9). "Politics", Shivji has observed,

is not simply the question of state power, that is to say (1) the relation of governance between the state and the citizen and (2) the division of power within and among the institutions of the state. Politics involves as well approaches, ideologies and relations in respect of differences and different interests within the civil society at various levels(10).

The way states choose to use their power, and the degree to which they are seen to direct the affairs of individual citizens and groups have long attracted labels ranging from liberal to totalitarian. In between there have been variations of pluralism and corporatism. Normatively, both liberal and totalitarian states are seen as signifying extreme forms of state control, though for very opposite reasons. The liberal state offers little or no control over powerful social groups in society, while the latter becomes so overbearing on individuals and groups within society that she might negate at times the basic human rights, as declared for instance, in the United Nations Universal Declaration of Human Rights (1948). Thus, because there is in existence a general perception of



the 'proper' use of state powers, modern states strive to negotiate their political order within the variations of pluralism and corporatism.

According to Michael Poole, the types of state intervention common in the West take the form of (a) pluralism - understood as circumscribed state influence in a largely fragmented and decentralised political economy; (b) societal corporatism - where centralised or moderately centralised governments reach agreements with strongly organised and usually centralised interest groups, and (c) state corporatism - where strongly interventionist governments are unchecked by independent organisations(11). While the reasons why some states find themselves gravitating towards extremes on the liberal-totalitarian continuum are many, complex and controversial, it is generally understood that those states which permit political pluralism, in the sense of allowing organised competition to political power are democratic. The recent development of multi-party politics in the former One Party Socialist States of Eastern Europe, and which is about to be emulated in Black Africa(12), illustrates this proposition.

Also, within the literature on workers' participation, it has long been understood that the best chances of instituting enduring systems of workers' participation are in those countries whose political systems combine the virtues of democracy and active support for a new vision of the role of employees in the capitalist system of industrial production.

These perspectives come out more clearly from writers who have examined the origins and development of workers' participation systems in Sweden and Germany. The works of Meidner(13) and Higgins(14) on Sweden, of the German Trade Union Federation(15) and of Thomas Raiser(16) on Germany are particularly in point. Due to the similarity of arguments advanced, we shall present those of the German Trade Union Federation, not least because of the acknowledged authority of that union in the field of workers' participation policies(17).

Already in 1967, the German Trade Union Federation argued that no justification for workers' participation can be adduced if new forms of dependence and constraint threaten individual rights of freedom. In their view, workers' participation could be consolidated only if workers, their delegates and representatives were assured that the form of society emerging in the political, economic, and social spheres was so ordered that it provided adequate guarantees for self-determination and joint responsibility(18).

such a system (which operates workers' participation) presupposes that every individual has a claim to accurate and adequate information on all questions affecting his freedom and his social responsibility. Further, it is essential that all grades of society shall be in a position to form a free and independent judgement on all important developments in the society in which they live. Moreover, every individual must be in a position, in



association with all others of his own persuasion, to ensure adequate consideration for his own ideas within the play of forces in a pluralist society(19).

The Union also suggested that the general conception of workers' participation presupposes a system of free enterprise based on the principles of a free market economy. Here the union saliently illustrates the point:

In all those instances in which the economy is subjected to central administration there can be no genuine form of workers' co-operation or codetermination at the various levels of the productive process. All really important decisions affecting the volume and type of production, as well as the forms of administration within the economic system, are made by the central authorities and the ministries, with the result that there is little or no room left for codetermination and joint responsibility at enterprise and workshop level. Any form of codetermination to be exercised inside the undertakings by those affected by the process of the economy, and particularly by the workers, is practically ruled out(20).

It is essential before we go any further to grasp the argument being put forward. It is not that pluralist market economies bring about workers' participation policies. No evidence supports such a proposition. Rather it is that conditions of a pluralist market economy offer the minimum necessary political requirements for the extension of demo-



cratic programmes at places of work. In short, democracy and its prerequisites must exist in the broader society before it can be made to enter the factory(21).

## 2.2 The Zambian political Process in the 1970s

Against the above criteria of political principles thought useful to operating a system of workers' participation in decisions of industry, how did Zambian developments in the 1970s square up? Two tendencies can be identified for the purposes of indicating political developments in Zambia in the 1970s.

First, there is little doubt that the Zambian leadership in the 1960s aspired to a democratic order familiar in framework to that advocated by the German Trade Union Federation. Codetermination, indeed, was a term found in the Zambian worker's participation of President Kaunda(22). Moreover, by making a strong case in the 1960s against the narrower base of colonial social and economic power, and by announcing economic reform policies to redress such inequalities, the Zambian state seemed for once consistent in her crusade for a democratic order in the Zambian society.

But along with this there was another more pervasive tendency. Just after policies were taken to widen the base of economic democracy by bringing more Zambians in the active industrial and commercial sectors of the economy, there were plans to short circuit pluralist political democracy by moving to a One Party State political system. The inauguration of the

One Party State System in 1972 confirmed the existence of contradictory political ideals in Zambia. The more serious aspect of the One Party State for workers' participation policies was not the fact of its existence, but the way it was set out to operate in relation to other institutions and structures of administration in the country:

The Party is supreme in our One Party Participatory Democracy. It is the source of national policy. The party will not only be interested in the working out of broad policies and objectives, it will be directly involved in the planning, organisation, control and management of the entire administrative machinery of our nation(23).

Those prophetic words of President Kaunda defined for Zambia the doctrine of the supremacy of the Party, which in operation, as the arguments of the German Trade Union indicate, was the very opposite of the political infrastructure that was necessary to support policies of workers' participation in industry. The subordination of all other institutions and structures of power to the Party, not least trade union organisations and corporate managements in the ascending state run economy, ran against any meaningful conceptualisation of Industrial Participatory Democracy. It is these tendencies in the Zambian political process which have been partly responsible for the 'tangential' treatment of the subject of workers' participation in Zambia. Despite state efforts to push the subject into the public arena, few viewed workers' partici-



pation as a significant development to be studied in its own right given the broader political parameters of administrative decision-making in the country.

Given that for most part of the period under study, there was continued scepticism about the Kaunda government's credentials to democracy under a One Party State, the conclusion is inescapable that at the level of the political process, the state in Zambia hardly created conditions encouraging to the successful implementation of policies of workers' participation in management decisions. As Peter Suffern wrote, in a different context, "no egalitarian, rational and libertarian order can become a plausible and sustainable societal project, if from the start, civic freedoms, mass empowerment and accountability of power are not made the basis of the new social relations"(24). We can add very little to that statement as a form of summary of the constraints put by the Zambian political system on the progress and development of workers' participation policies in the 1970s.

### 3. Economic Structure and Workers' participation Policies

#### 3.1 The Meaning and Description of Economic Structures

Barber characterised the economies of Central Africa as 'dual economies'(25). The idea serves to mark the distinction between traditional subsistence economies, and the modern industrial and commercial segment with which the former exists side by side in individual countries of Central Africa. It is obvious by now that we are concerned in this study with the



commercial and industrial segment of the Zambian economy. Workers' participation policies find no meaning in that part of the economy without conventional employment relationships. We therefore point out the obvious only to clarify better what we mean by Zambian economic structure in this section.

In relation to the commercial and industrial sector of the Zambian economy, the concept of economic structure is used in this essay to denote broad patterns of business ownership. It defines the way in which ownership of industrial and commercial property is distributed, and by extension the concept signposts the different centres of authority over industrial and commercial property in Zambia.

Principally, distribution of commercial and industrial property in Zambia can be differentiated along the public/private dichotomy. Public ownership is understood as state entrepreneurship. Private connotes all other forms of industrial and commercial ownership, whether by corporate bodies, partnerships or individual proprietors.

Further, the private sector may be broken into its local and foreign segments. The former involves businesses run by indigenous Zambians, the latter of businesses of non-Zambian residents, and subsidiaries of multinational companies. This classification of economic structures is sufficient for our purposes, but it must not be thought that these categories are peculiarly watertight in Zambia. Business relationships in any economy are a complex tapestry, but in their historical

development, and for the purposes of the exposition we are seeking to make, our classification is sufficient.

In the years prior to Economic Reforms of 1968 to 1970, the structure of the Zambian economy differed very little from that which was introduced and consolidated by pioneers of Zambian capitalism in the first quarter of the twentieth century. The structure of economic ownership, like politics, was dominated by private and foreign interests. The British South Africa Company, the Anglo-American Corporation, and the Roan Selection Trust formed the nucleus with their interests in the mines and railway industries. When these diversified into engineering, construction, breweries, and transport they met with that other giant of Central African economies, London and Rhodesia Mining and Land Company (Lonrho). Lonrho's interests in agriculture, hotels and distribution businesses coalesced with those of the mining companies at the centre and Asian traders on the fringe. At the same time, Standard and Barclays Bank Groups wrapped up the mix of private, foreign interests at the centre of the inherited structure of the Zambian economy with which the independence government of President Kaunda wrestled. None of this is new. We have seen in Chapters 2 and 3 that criticism of the structure of Zambian colonial economy provided the basis of both nationalist struggles, and the specific direction of independence policies.

That said, it would be wrong to imply that even by 1968 Zambians were still in the same position regarding ownership of



commercial and industrial property as was the case in the 1940s and 50s. By this date some strides had been made by individual Zambians to join the ranks of business ownership. This was noticeable in agriculture, retail and transport businesses(26). Even so, it was commented as late as 1973 that:

the vast majority of the new indigenous owning class could best be regarded as petty bourgeois, owning small enterprises, most in commerce and utilising a large component of family labour(27).

The logic of the Economic Reforms was to seek to break at a stroke into the centre of the active economy - indeed to cut at such irritating home truths like 'Lo Government yena ka wena, lo mali yena ka tina' (a patois, roughly: the government is yours, the money is mine)(28).

Though Kaunda's speech of November 1970, 'This Completes the Zambian Revolution', was immortalised by his government's failure to nationalise the private banking system, it is generally agreed that the economic reform policies were the success story of the post-colonial government(29). By the middle of the 1970s, Zambia had a different economic structure from the one inherited from the colonial system and which was substantially in operation when participation policies were announced. The addition of both the state and indigenous Zambian operators was the most spectacular aspect of these economic developments.



### 3.2 The New Economic Structures and Participation Policies

What is critical for an understanding of the context of the Zambian policies is the extent to which the new economic structures enhanced the potential for the development of workers' participation in management decisions. To what extent could the new centres of Zambian industry be persuaded to accommodate the notion of employee participation in decisions of companies? In the next three sub-sections, we attempt to answer this question in relation to each of the three centres of entrepreneurial activity which emerged with government policy in the late 60s: the emergent indigenous sector; the non-Zambian resident and multinational subsidiary sector; and the nationalised public sector.

#### 3.2.1 The emergent indigenous sector

The symbiosis between the economic policies of Zambian Humanism and the making of the indigenous business class is a dimension of post-colonial developments which will need more research and analysis than is currently available(30). Even so, it is one of the salient features of the Zambian Economic Reforms of the late 1960s that they received little local opposition, especially from Zambians. What is more, the kind of public acrimony known to have been caused by business interests in Europe in the 1970s over industrial relations policies of workers' participation was hardly evident in Zambia. Some innuendos of opposition to the way things were going can be detected from historical sources, but in no way did this amount

to an articulated class position against workers' participation or the wholesale socialisation of the means of production.

This failure by Zambians to put state policies to a thorough examination lay at the heart of Mitcheley's irritation when the Industrial Relations Bill came before Parliament in 1971. Mitcheley, as the Member of Parliament for Gwembe North, and one of the last Whites to sit in the Zambian Parliament in the 1970s, became agitated when he saw that the Bill, containing the provisions on workers' participation, was passing through Parliament without serious questioning from his fellow Members. The MP stood up and said, *inter alia*,

The Bill, as a whole, Mr. Speaker Sir, is an important one and it more than worries me that a piece of legislation which was fought over night and day for not less than six months in the United Kingdom Parliament is going to go through this Parliament in a matter of hours(31).

Despite the seriousness of Mitcheley's observation, his point was lost, and he was accused instead, of still patronising Africans(32)! How can we explain this behaviour of Zambians?

Part of the answer must be that nationalisation policies and their accompaniments were acceptable in the climate of the 1960s, described by Richard Hyman as "a time of radicalism and innovation in social sciences"(33). The other reasons are historically specific to Zambia. First, because of the racial structure of colonial social society, where indigenous Zambians



were restricted in terms of social mobility, changes such as were introduced by the Zambian government were seen as inevitable. How else could the situation for Africans be improved in a short space of time within the logic of inherited structures of colonial capitalism? This consideration, we think, weighed on the minds of Zambians who had access to policy-making irrespective of their political affiliation. But the same reasoning should have affected the thinking of foreign operators in the country. The best way in which expatriate businessmen could protect their interests in a changing Zambia, as we shall indicate below, was not to oppose public measures directly, but to use their resources, experience and contacts to influence ultimate outcomes of Government decisions.

From a purely Zambian perspective, lack of opposition to government measures even by the Official Opposition, which existed throughout the initial years of economic reform policies, is indicative of another important sociological dimension. Precisely the elements most able to challenge government measures in the Zambian society of the 1960s were, in fact, the weakest. Either they were implicated in the making of these policies or, most probably, they were the persons who stood to gain most from the self-interested policies of the state. No malice is implied in this argument. The point is that the educated, senior civil servants, professional politicians and the up-coming Zambian entrepreneurs were the real beneficiaries of the spoils resulting from the dismantling of



the colonial economic and social order. The 1960s and early 1970s indeed, were a period of great transformation in the fortunes of individuals who had the barest of personal credentials. It was happening in the mines, forces, civil service, and of course business(34). In this context, we can understand one reason why President Kaunda moved to a One Party State political system in 1972. That reason lay in the need to contain the turbulence of the economic policies of the Philosophy of Humanism. As politicians crossed from party to party in search of beneficial alliances in the new economic order, Kaunda read these political developments as disruptive to internal state cohesion in the midst of a troubled political region. For President Kaunda, One Party State system offered at least a retrieve from that turbulence at the political level(35). Kaunda brought the point home when he declared prophetically:

The era in which political supporters with mercenary motives have switched loyalties depending upon the winds of political fortune must be buried in the sands of history(36).

An article by Carolyn Baylies also brings interesting perspectives on the state and the indigenous class. For her, Zambia's Economic Reforms and the specific form they took, was an outcome of pressures on the state by indigenous artisans and petty traders who associated under the banner of Zambia African Traders' Association. These African traders demanded

specific favours from the state as against big business organised by Zambia Industry and Commercial Association (Zincom) and Zambia Federation of Employers (ZFE)(37). But the intrigues really lay in the interaction between levels of political involvement and entrepreneurial activities. The higher one was on the political scale, the better placed he was to acquire businesses. Baylies and Szeftel emphasise:

The political importance of businessmen, however, is not to be measured or inferred merely from their presence in Parliament. The issue is more complex and involves the high intimate relation of indigenous capital and the state, evident in the extent to which high position in the party or state has served as a point of entry into the ranks of indigenous owners(38).

Given this analysis, what can we make of the disposition of the indigenous entrepreneurial sector to workers' participation in management decisions? Did their tacit silence at the time of reforms signal approval of the principle of workers' participation in management decisions? No comprehensive answer can be given at this stage until we have reviewed responses to the implementation of workers' participation laws in Chapter 6.

Nonetheless, the picture one forms from these materials is that whatever Humanism meant to President Kaunda personally, the majority saw programmes under its auspices as an opportunity to escape from the bottom of society at which Africans were supposed to have been by reason of their skin. In this



sense, any initial support which the government had on Industrial Participatory Democracy was highly tentative. This asymmetry on the goals of participation policies will be met once more in the context of the work of IPD in Chapter 7

For the moment, it is reasonable to conclude with some sense of scepticism about the disposition of the Zambian entrepreneurial class towards workers' participation policies. The indigenous class was, after all, the most vulnerable group of investors. Compared to foreign operators and the state, these lacked money; experience; management skills and wider business contacts in the world. In their circumstances, they supported Industrial Participatory Democracy, if at all, only for the value which its rhetoric served them. This was obviously not a sound basis on which shared objectives could be developed with employers on workers' participation in management decisions.

### 3.2.2 The resident and multinational subsidiaries sector

A peculiar feature of this group of the Zambian economic structure is that it was their practices during the colonial period and early years of independence that provided the motive force for Economic Reforms, and workers' participation in particular. Portrayed as beneficiaries of the colonial system, they were a target group against whom the state sought to direct her social and economic policies. The nationalisation of the 1968-70 period affected mainly this group of investors. Vulnerable, as they were in the face of a determined state



bureaucracy, their best protection was not to confront government measures directly, but to work for results that would reduce the effects of government decisions. Other factors counselled foreign operators into this posture.

For instance, the nationalisation measures undertaken in Zambia were not that confiscatory as history and rhetoric might suggest. Zambia was, after all, the land of the African Humanist. All President Kaunda asked for was a 51 per cent stake in the companies nationalised. 'Full and fair compensation' was promised for those shares. Once the owners of the foreign companies affected had got over the initial shock of the scale of government decisions, it was clear that not all had been lost for foreign investment in Zambia. For some companies, state participation could only be a welcome development in the uncertainties of Third World economies(39).

The other consideration in the 1960s related to the scarcity of trained Zambian managers. Because of this manpower constraint, nationalisation policies did not mean sudden ascendancy of Zambians into managerial positions, especially beyond the post of Personnel Manager. Training for Zambians was emphasized, but by definition, that required much more time. In the meantime, former owners and their managers could still exercise authority, though of course, with increased consultation with representatives of the state(40).

The opportunities to continue profitable investments without loss of immediate control of companies, led to a pheno-

menon of 'casual acquiescing' in state policies by the non-Zambian group of businessmen. So long as actual operation of state policies did not impose serious constraints on their operations, expatriates were ready to allow Zambians to indulge in whatever policies pleased them politically. Evidence suggests that whenever vital interests were threatened, the historically dominant expatriate group did not delay in using its resources, influence, experience and contacts to channel state policies into safer alleyways. The soft terms on which nationalisation policies were based might be a pointer(41), but the successful resistance to nationalisation of private banks would be a more accurate case. The latter provides an example of cases where more serious and imminent threats to private investment were identified. The demise, as we shall see in Chapter 5, of the original idea to enact a root and branch form of participation legislation is yet another example.

We understand that the Zambian Commercial Farmers' Bureau (ZCF) was one employer association that effectively lobbied for the watering down of the Zambian legislation(42). What we are not told is why of all employer associations, farmers should have lead the role in opposing workers' participation policies? The history of Zambian industrial relations hardly focuses on activities of the farming community. Whatever implications participation laws had for the farming employers, it hardly justifies their thrust to the front on Industrial Participatory Democracy.



Our suggestion is that the ZCF, whatever its own interests, was acting more as an outlet of expatriate business resistance to workers' participation policies. The other employers' association in commerce and industry whose activities were at the centre of economic reforms had become too dependent on the goodwill of the state to mount a vociferous challenge to its policies. But since prevention of radical legislation was essential, the co-operation of the least vulnerable group of employers was needed to keep in check institutionalisation of radical state policies in the statutes.

If this view of foreign operators is sustained, the conclusion on their disposition to workers' participation policies seems obvious. Besides, these investors were the very group against which participation policies were targeted in 1969. In their situation, to have involved workers in a meaningful way would have amounted to cutting at the centre of their own remaining security - the ability to make their own judgments about their investments in the emerging order. All this has to be understood as being above the singularly important factor that decision-making is an element to which foreign investors, especially the multinational corporation, attach great importance. On the latter point alone, students of multinational corporations have exposed the paradox that the more the domestic situation becomes volatile, the more control is ceded to the centre (Regional or World Headquarters)(43).

In the circumstances of Zambian developments, what chance



could there have been for this group of investors to be favourably disposed towards implementation of workers' participation policies in Zambia? Once more it would seem that the basis for shared objectives with these employers was absent.

### 3.2.3 The nationalised state sector

It is possible to argue that even if both the indigenous and foreign sectors of the economy were not disposed to the ideas of workers' participation in industry, the state sector was sufficient to carry out government policies. One can point here to the fact that despite the populist way in which arguments for Zambianisation of industry were framed, it was, in essence, the omnipotent state which actually became the greatest beneficiary of Economic Reforms. Through creativity, acquisitions and nationalisation, the state sector grew from one company in 1964 to a total of over one hundred and twenty companies in 1986(44). What is more, the conglomerate through which state entrepreneurship was organised in 1970 advertises itself thus,

With an annual turnover in the region of a thousand million Kwacha, Zambia Industrial and Mining Corporation (ZIMCO) with its 120 subsidiary and associate companies is not only the major force in the national economy but also ranks high among the great companies of the world. Zimco is a group of extremely diverse enterprises active in a wide range of vital sectors of the national economy, from the great mines of the Copperbelt to small village stores

in rural areas of the republic(45).

Given that the state, also the purveyor of workers' participation policies, had access to a vast array of commercial and industrial companies, what reasons have we got to suspect that there were insufficient background conditions for enactment and implementation of participation legislation in Zambia?

The answer cannot be obvious until we first confront the basic objective of workers' participation in industry. This involves the employees having the opportunity to participate in the decision-making and the capability - the information, skills and confidence - to take advantage of that opportunity. It involves above all, the likelihood that employees will be able to put views that are influential in the making of decisions in individual companies. These aspects of participation in industry serve to alert us both to the existence of formal structures of decision-making and the ways in which those who occupy formal positions of power actually exercise that in order to realise their goals. These two are different both analytically, and in their implications for participation policies in industry.

As to the formal structure of state enterprises in Zambia, this is discernible from the description of Zimco given below:

Zimco, all of whose shares are owned by the state through the Minister of Finance, is not a direct part of government machinery, but operates along it in the economic



field. Zimco itself is controlled by a Board of Directors, whose Chairman is the President of the Republic, His Excellency Dr K D Kaunda: the board consists of cabinet ministers whose portfolios include economic sectors, heads of government development agencies, trade union leaders, and representatives of the private sector. Zimco is under the management of a Director General, assisted by Group Executive Directors...The Corporation's sectorial departments are: Agriculture, Communications, Energy, Finance, Hotels, Industry, Mining, Construction and Real Estate, Trading and Transport. Zimco's direct subsidiaries have each their own management, as do their subsidiaries, some are wholly owned and many with minority shareholders held by outside investors(46).

The picture of state enterprise organisation seen through Zimco is that of a rigidly hierarchical set up, containing at the top the highest men in the land. This is the situation that has existed in Zambia since Zimco's incorporation on March 31 1970. Given the hierarchical organisation of state enterprises, what could have been the quality of opportunities available to ordinary workers to actually influence decisions at the enterprise level?

The more disturbing reality of decisions in the Zambian state sector is that hierarchies have not been understood as the main problem. Rather, the problem, attested to by several studies, is the refusal by those politically powerful in the



country to live by the routine of hierarchy(47). The studies by Chaput (1971), Simwinga (1977), Mushota (1979) and Mulwila (1980) are all very relevant in this context. These studies indeed turn on its head the Managerial Revolution thesis discussed in the West since The Modern Corporation(48).

The managerial revolution thesis postulates that in modern business corporations, managers have become the real depository of corporate powers to the extent that it can be said that shareholders have lost control. Though the correctness of this view has been contested in some quarters in the West itself, notably by writers like Maurice Zeitlin(49), the managerial revolution thesis is presented by many other influential students of management, like Alfred Chandler(50) and Oliver Williamson(51), as the conventional wisdom of commercial corporate civilisation. What the Zambian studies of corporate governance in the state sector show is that either the managerial revolution thesis is wrong or wholly inapplicable to Zambian developments. In Zambia, it was the state corporation managers themselves who were shown in one study after another to complain about their lack of control over their companies. Instead, what is shown is that the State, as the shareholder, called on its forces in society [primarily, the Party] to influence and direct decisions in individual companies. In the newly found freedom of expression one long time General Manager in the state sector has lamented the past thus:

Parastatals were overwhelmingly flooded with appointees

who were not accountable to the people and were incapable of functioning effectively. Economic management measures were not designed to be accountable to the people. The economy of Zambia, under One Party, were dictated by external institutions. The One Party system is incapable of managing the economy. It is not participatory, it is exclusive(52).

Even allowing for the fact that this particular former state manager is a multi-party advocate (as the new reformers are called), and, hence, an interested witness, the weight of his submissions together with those of previous studies, and the actual hierarchical manifestation of the ZIMCO conglomerate, tell us that the state sector was not, after all, the favourable ground for workers' participation policies. This conclusion is reached even before traversing the more theoretical question of what value do workers' participation policies serve in the nationalised sector of the economy(53)?

### 3.3 Summary on economic structures and participation

We have examined in this section the disposition of the Zambian industrial structures to the ideas of workers' participation in management. Industrial structures were defined and divided into three principal segments. The indigenous private sector, the resident non-Zambian and multinational subsidiary sector and the state sector. What the above discussion shows is that in the specific historical setting of the Zambian policies, each of these sectors possessed peculiarities sufficient



to rule out meaningful development of workers' participation.

The indigenous sector was in its infancy, grappling its way through a concentrated, powerful but vulnerable foreign dominated private sector and the new but increasingly dominant public sector. The resident non-Zambian and multinational subsidiary was an aggrieved group to whom new industrial relations programmes could only have been additional and unwanted inconveniences. On the other hand, the state sector's own ascendancy to primacy in the economy seemed to be the greatest constraint to workers' participation. This was because of the increasing overlap between economic management and operation of the political process. Therefore, the conclusion is that Zambia's economic structures, like the political process, provided bleak background conditions for a successful implementation of workers' participation policies.

#### 4. Industrial Relations History and Development

##### 4.1 Introduction

The discussion so far has painted a negative picture of the disposition of Zambia's political and economic structures towards the encouragement of workers' participation in management decisions. The point addressed in this section is whether there was anything in the history of Zambia's industrial relations or in the way it was developing in the 1970s(54,55), which could have given to the Zambian Government encouragement to implement workers' participation in management decisions. In other words, to what extent was Batstone's



assertion that "schemes which apparently develop 'industrial democracy' have often been less an extension of worker influence than a recognition of its existence and an attempt to channel it"(56), a valid proposition in the Zambian experience?

To throw light on this interesting and relevant dimension, it is necessary to examine how historical developments fed into the changes of the 1970s, and how, in turn, such changes, if any, were helpful to the cause of workers' participation in management decisions. Thus, section 4.2 presents a brief outline of the Zambian industrial relations system as it emerged at independence(57), and a brief review of changes introduced by the Zambian government before and after the Industrial Relations Act, 1971. Finally, section 4.3 discusses how that history and the changes encouraged by the Industrial Relations Act fitted the scenario of workers' participation policies.

## 4.2 Industrial Relations in Zambia up to 1971

### 4.2.1 Historical Perspectives

The foundations of industrial relations in Zambia were laid in those years which saw the emergence of a new, urban, industrial wage-earning labour force centred on the mines and railways(58). The colonial Government's attempts to ignore the realities of the African working force in the 1930s were challenged by African protests against the conditions of poverty and the racial discrimination from which they suffered. The Copperbelt miners' protests of 1935 and 1940 are by far the

most well known, not least because of the fatalities Africans suffered at the hands of colonial police(59) and the publicity of the Government Commissions of Inquiry into these incidents(60). But similar protests, though perhaps of less significance, occurred in the 1940s at Zambezi Saw Mills in the South, Kabwe Zinc and Lead mine in the Central, and Rhodesia Railways along the breadth of the country(61).

Beyond the specific grievances which these protests aired, they were as well a demonstration of the ability of Africans to organise themselves which colonial authorities could not ignore. The authorities responded in 1944 with the creation of a Labour Department to advise on employment affairs; in 1947 with the appointment of a Scottish Trade Union Labour Officer (William Comrie) to assist with the organisation of African trade unions; in 1949 with the passing of the Trade Union and Trade Disputes, and Industrial Conciliation Ordinances. The former recognised the right of Africans to form trade unions, and the latter offered state voluntary conciliation and arbitration procedures(62).

The continued growth of the mining industry in the 1940s and 50s; of the civil service and agriculture after world war 2; new stabilisation policies; and better awareness of capitalist production relations and the political system that was supporting it in Northern Rhodesia combined to influence the growth of African trade unionism in the decade after 1949. By 1954, "some sixteen unions had appeared and there were few



industries in which workers had not made some attempt to organise themselves within a trade union"(63). There were 18 such registered unions in 1961, and 29 at independence in 1964-(64). The key issues on which they organised throughout the colonial period were "increased wages, improved working conditions, African advancement and an end to the industrial colour bar"(65).

On the other hand, the framework of industrial relations ushered in by the 1949 colonial legislation was premised on the then British system of voluntarism. The essence of it being that the state permits labour market parties, within narrowly defined criminal and tortious liabilities, to use their powers to negotiate mutually agreeable collective agreements enforceable in honour only(66). The appointment of the Scottish Trade Union Officer was, in context, intended to steer African trade unionism towards that responsible trade unionism. This was the view echoed by the Northern Rhodesia Labour Commissioner at the time of the 1949 legislation,

The basis of a sound and healthy development in industrial relations has been laid and, providing reason and understanding are shown by all concerned, there is every reason to hope that future problems will be settled by peaceful negotiations(67).

However, in the colonies, unlike in Britain, strains with a liberal model of industrial relations were discovered almost universally as soon as liberal legislation was enacted(68). A



combination of factors was responsible(69). But the decisive one seems to have been the expectation that colonial subjects would accept the broader environment of colonialism within which industrial relations was practised.

Rejection of such premises by colonial subjects has provided the basis for the colonial 'political trade unionism' thesis - a description of how unionists used their given rights to organise to support nationalist movements(70). The colonial authorities saw this development as an 'abuse' of privileges, and moved legislation to control the internal organisation of trade unions. In Zambia, amendments to the Trade Union and Trade Disputes Ordinance in 1956 and 58 made union registration compulsory, imposed government supervision over trade union finances and introduced mandatory secret strike ballots(71).

Much of this voluntarist framework survived the colonial system. This was certainly the case in conciliation and arbitration procedures, whose legislation was not amended. It was also the case with the structures and organisation of trade unions. These remained up to independence a matter for individual trade unions and trade unionists. The existence of multiplicity of unions in a very narrowly based industrial economy confirmed the preservation of rights of association. A glance at the sort of unions that were formed in the 1940s and 50s show that craft unions, general unions, industrial unions and single-organisation unions were all represented in the Zambian structures of trade unions(72). This state of affairs

during colonialism led later to perceptions of a strong and independent trade unionism in colonial Zambia, and the decrying of all that had happened after national independence. Who can complain?

It is interesting to note, however, that there is a great deal known about trade unions in colonial Zambia, both about their organisation and their relations with political parties. Splinter groups have invariably been interpreted in terms of personality clashes and political affiliations(73). In contrast, very little or nothing is known about the employer contribution to the fragmentation of trade unions in colonial Zambia. Yet, the role of employers in shaping trade union organisation is close to an elementary principle in industrial relations studies(74). In the Zambian case, it would be a strange discovery if the African low wages, poor conditions of service, and the entrenchment of racist practices were in no way related to the state of development in African trade union organisation. Some lessons in this respect could be drawn at least from the Scandinavian school of trade union power which suggests that individual trade union action in the face of well organised employers has serious drawbacks(75). Juxtaposed in the context of a racially organised colonial society, the folly of small multiple unions becomes self-evident.

#### 4.2.2 Developments after independence

Though tempered by the legislation of late 1950s, the received industrial relations system was voluntary, at least to



the extent that it was still up to employees and employers to organise their relations within the framework of permissive legislation. The expectation - according to political scientists writing on state and trade unions in Zambia(76) - was that the independent government would move to restore even greater freedom of organisation to workers and their trade unions. If that had happened, the colonial era would have provided the learning of collective bargaining, and the independence, the practising of a more mature pluralist system of industrial relations.

Once in power, however, the African government saw things differently. To be sure, the Kaunda Government agreed to improve individual employment rights, if only to remove racial and discriminatory provisions and to provide minimum conditions of service and security of employment(77). On the trade unions however, the state identified the organisation of the trade unions as lying at the heart of the 'independence crisis' in industrial relations. Thus, the government responded with a policy of 'One Industry, One Union'. This translated into a requirement for major reorganisation of all the trade unions. More controversially, the Government enacted legislation - the Trade Union and Trade Disputes (Amendment) Act 1964, just two months after independence, whose objective was "the closer regulation of both trade unions and trade union leaders"(78).

The significant point here is that such changes as were undertaken by the Zambian Government in the structure and



organisation of trade unions were so during a critical time in their relations between African employees and their White employers. The reorganisation had implications for the ability of unions to organise and demonstrate their institutional capabilities as agents of change. As it happened, in fact, it was the Government itself through legislation and a series of Commissions of Inquiry that did so much of the unions' job of transforming labour practices from their colonial setting(79).

However laudable or otherwise such state action might have been, it questioned the effective lead, and cast doubt on the authority, and legitimacy, of the trade union officialdom. The matter was exasperated by the practice in early years of independence to draw Labour Ministers from the ranks of former trade union leaders(80). The tutelage implied in the relationship added to the conflicts between the unions and the state because the latter came to be viewed increasingly as being very interventionist in affairs which hitherto had been the domain of trade unions(81).

Three years after independence much of the trade union reorganisation had occurred, and in the direction demanded by the state. The colonial labour legislation had been revised. Hence, it seemed the time for restoring the initiative in industrial relations to the labour market parties. To this end, both employers and trade unions were urged by the President and Ministers to take their responsibilities seriously in the new Zambia. The Livingstone Labour Conference of April 1967 is

perhaps the most remembered government exercise in attempts to restore the conduct of industrial relations to the primary parties of the labour market. In Appendix B are lists of pledges to which both the trade unions and employer organisations committed themselves in accepting responsibility for a voluntarist conduct of workplace industrial relations.

Yet, for all the solemnity of the trade union and employer pledges in 1967, all was to be thrown in jeopardy in April of the following year. Indeed, as was explained in Chapter 3, it was the same April of 1967, when employers, trade unions and government officials from the Ministry of Labour were working out a reconciliatory framework of industrial relations in Livingstone, that President Kaunda was himself putting forward his submissions on the Philosophy of Humanism. From then on, things were to be different. Subjects which had hitherto been glossed over in the interest of harmony, and perhaps appearing reasonable, were raised directly. Issues pertaining to the repatriation of profits, the lack of opportunities for Zambian entrepreneurship, the slow pace of Zambianisation in industry, the pitiful rural poverty and a host of other colonial misdeeds were laid on the political agenda to lend moral legitimacy to new and radical policy programmes.

The aftermath, as we now know, was a transformation with great implications for industrial relations. Old employers, if they survived, were placed under a veil of insecurity. New Zambian managers and employers were in the ascendancy, and



above all the state was emerging as the largest employer of industrial and commercial labour. All these changes in the employment situation, and for a variety of other reasons, necessitated a rethink of the industrial relations legal framework. Hence, the coming of the 1971 Act.

#### 4.2.3 Principles of the Industrial Relations Act, 1971

The main purpose of the Industrial Relations Act was to consolidate the legislation in the Trade Union and Trade Disputes and Industrial Conciliation Acts. However, in so doing, it took on a very creative role of its own. Apart from enacting for the right of the workers to belong to trade unions; the right not to be dismissed for trade union activities; the right to paid time off for trade union business; and the outlawing of certain discriminatory practices(82), the legislation created a new Industrial Relations Court and enacted the provisions which are the main subject of this study(83).

At a theoretical level, the thrust of the Act was to transform the voluntary framework of previous legislation into what has been called the 'juridification' of industrial relations. As used by Simitis(84), Clark(85) and others(86), 'juridification' of industrial relations is understood as "the extent to which the behaviour of employers and trade unions in dealing with individual and collective employment issues is determined by reference to legal norms and procedures, rather than to voluntarily agreed norms and procedures or to 'custom



and practices'"(87). In other words, this is a system where interaction of employers, trade unions and state agencies are locked within the operation of previously announced legal provisions. The net effect of juridification being that the freedom of labour market parties to conduct their relations is constrained by a much more awareness of legal provisions and their operation in the industrial relations system.

Translated, the new Zambian law assured all employees and employers the right of association and freedom of organisation, but at the same time recognised in each case only one peak organisation for trade unions and employer organisations. The Zambia Congress of Trade Unions (ZCTU) and the Zambia Federation of Employers (ZFE) were the respective peak organisations of which all registered trade unions and employer associations were deemed to have affiliated on registration with the Commissioner of labour(88). The law also mandated the formation of joint councils at industry level, and bargaining units at enterprise level for the purposes of collective bargaining(89). Furthermore, every employer

employing twenty-five or more eligible employees...shall register himself with the Commissioner within a period of three months..., and not later than three months from that date, he shall enter into a recognition agreement(90).

The net effect here was to compel collective bargaining at the largest scale. This requirement was made more stringent by the provisions demanding that both the collective and

recognition agreements should be subject to registration and the terms thereof approved by the Industrial Relations Court(91). Consistently too, the new law made conciliation procedures mandatory, and procedures for dispute settlement strictly laid down in law(92). The final results were that while the rights to strike and lock-out were acknowledged, formal procedures and provisions which declared decisions of the Industrial Relations Court final and binding(93) ruled out any legal recourse to self-help remedies in the new framework of industrial relations.

#### 4.2.4 Implications for workers' participation policies

Against this background to industrial relations history and development, what can be said about susceptibility of the Zambian industrial relations system to the policies of workers' participation in management decisions?

On the face of it, the description of Zambia's industrial relations history and development does not seem to cause particular problems. The industrial relations system had been subjected to a series of leaps over the years, and there is no reason to suggest it would be unable to absorb the shocks coming from the need to implement workers' participation. Therefore, providing workers' participation legislation took into account and accommodated the changes occurring elsewhere, the materials we have considered do not suggest necessary conflicts with the principles of workers' participation. After all, the countries of Western Europe where the concept of



juridification finds its origin are the ones renowned for the schemes of workers' participation in management decisions.

The above judgement however needs to be placed in context. It is obvious from the scope of the Industrial Relations Act that juridification, if that is what it was, was pushing in too many compulsory institutional arrangements which required a lot of learning from both employers and employees. Thus, even assuming, for the sake of argument, that there was no opposition in principle to workers' participation by employers and the trade unions, the situation presented was open to prioritisation. In that event, experience would suggest that employers and employees would want to pay attention to the institutions of collective bargaining because these were the most known and best understood. In practice however, as we shall see in Chapter 6, it was the extra-legal institutions demanded by the Party at places of work that did so much to complicate an already fluid institutional development.

Therefore, even from the point of view of industrial relations history and development, the question must be asked whether Zambia was prepared for workers' participation policies. The materials we have consulted point to a different picture which is unlikely to validate the dictum of Batstone, at least in its explicit recognition of the role of the labour market actors in the evolution of participation policies.



## 5. The Legal Framework of Company Decision-Making

Until 1969, the subject of workers' participation was relatively unknown in Zambia. The idea that workers might participate as of right in decisions of companies was entirely foreign to the Zambian legal order. In this section we examine in brief the nature of the legal system in which workers' participation laws were advocated. We also see what legal framework existed for decision making in business companies. The object is to highlight the existence of one important barrier and constraint to participation policies upon which the state was required to act in order to facilitate the devolution of responsibility and authority for decision making in companies to the workers.

### 5.1 The Zambian Legal System

The Zambian legal system belongs to the common law family of Western legal systems(94). Like other common law jurisdictions, the foundations of Zambian law are in the common law of England. The specific reasons for this connection of legal systems has to be found in the history of modern Zambia reviewed in Chapter 2. Hence, Chapter 4 of the Laws of Zambia, which is the English Law (Extent of Application) Act, declares English law enforceable in Zambia as consisting of:

- (a) the common law;
- (b) the doctrines of equity;
- (c) statutes which were in force in England on 17 August 1911;

(d) any statutes of later date than that mentioned in (c), applied to Northern Rhodesia or applied to Zambia thereafter by an Act passed by the Zambian Parliament.

At the same time, Chapter 5 of the Laws of Zambia, which is the British Acts Extension Act, provides for certain British statutes to be of direct application to Zambia. Some twelve such statutes appear in the schedule of the current publication of the Laws of Zambia(95). The practical effect of Chapter 5 is to import wholesale English law at a particular time in history. But there are still other Zambian statutes which purport to import English law as it continues to change in response to changing circumstances of the British people. The High Court Act, Chapter 54 is a good example. This gives the law and practice in probate and matrimonial causes, and the rules of procedure in the Zambian High Court (in default of local rules) as English law 'as it exists'(96)

The result is that the Zambian legal system, even many years after national independence, still depends, to a considerable degree, on English legal rules and their underlying assumptions in the common law. The matter in point is particularly pertinent in the area of commercial law. In this area, the common law, principles of equity and old English statutes remain the dominant sources of Zambian commercial law(97). Since we are concerned in this thesis with decision-making in companies, the relevant branch of English law is

Company law whose statute in Zambia is the Companies Act, Chapter 686 of the Laws of Zambia.

## 5.2 Company law and company decision-making.

The foundation of Companies legislation in Zambia is Proclamation 18 of 1921. It is this which brought in Northern Rhodesia the English Companies (Consolidation) Act of 1908 (98). Throughout the Colonial period that legislation remained the principal companies legislation, and was the one inherited for the organisation and administration of business companies at independence. So, when President Kaunda called for changes to Company law in 1969 in order to accommodate workers' participation policies, he was referring to a company law which in Zambia still dated to 1908. It is not really the antiquity of the legislation which matters to policies of workers' participation, but the organisation of decision-making in companies under the common law regime.

Under the common law, company law provides a legal structure of decision making which operates in the main to protect interests of those who provide capital. In the words of Tom Hadden, "company law is about capitalism. It provides the formal legal structure necessary to the operation of the capitalist system"(99). Typically, a relatively independent board of directors is elected by shareholders and is given responsibility for pursuing corporate interests. The Shareholder General Meeting decides on matters specifically not delegated to the board. But on both counts, the liability of



the board of directors and the test for the validity of shareholder resolutions are generated through the perspective of company interests(100).

In Zambia, the interests of the company have remained strictly the interests of the shareholders. This is because there has not been any major changes to the law since the Act of 1908(101). Thus, to the extent that workers' participation meant involvement of the employees in the formal structures of decision-making, the new Zambian industrial relations policy constituted a fundamental attack on the authority system then protected by company law. The English company law present in Zambia in 1969 was far from being receptive to notions of workers' participation in management decisions. Progress depended therefore on how well the Zambian authorities could address the barriers and constraints in the received company law structures. Whether or not the government would be able to disrupt the received system of decision-making in a substantial and material way depended ultimately on the legislation introduced in Parliament. We review typologies of participation legislation, and discuss the scheme particularly enacted by the Zambian Parliament in 1971 in the next Chapter.

## 6. Summary and Conclusions

The object of this Chapter was to survey the context in which workers' participation policies were advocated by the Zambian Government in 1969. Context was defined in terms of the underlying structural and institutional arrangements

supportive of policies of workers' participation. Four contextual elements assumed fundamental to development of industrial relations policies of workers' participation were isolated for examination and analysis.

The result of our discussion indicates that there was little in the political arrangements, economic structures, industrial relations history and developments or company law system in the 1970s which could have given encouragement to the Zambian Government to embark on its programme of Industrial Participatory Democracy. These findings on the actual contextual situation in Zambia are consistent with the views expressed in Chapter 3 that the programme of workers' participation was started not in response to pressures in industrial relations as was the case in Europe, but rather as an elitist construct drummed up by the state or those who represented it. The purpose, we have argued, was to pursue socio-political goals of Zambian participation in the ownership and control of active commercial and industrial segments of the national economy.

In the remainder of this study, we shall suggest that it is through understanding these original ambiguities in which the Zambian industrial relations policy was born that we can explain the confusion, uncertainties and contradictions which have marked the progress of the Zambian participation policy.



#### FOOTNOTES TO CHAPTER FOUR

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- 5 See statement in University of Warwick, School of Law Handbook (1990-91), p 4; Also Wedderburn op.cit.
- 6 Weekes, Brian, et al Industrial Relations and the Limits of the Law, Basil Blackwell, Oxford, 1975; Heffer, Eric, Struggle in Parliament, Gollancz, London, 1973.
- 6a See here Mayntz, Renate, 'Political Intentions and Legal Measures: The Determinants of Policy Decisions' in Hopt, Klans and Teubner, Gunther, (Ed), op.cit., pp.56-71, 65
- 7 States and Societies, Martin Robertson, Oxford, 1983, p.ix
- 8 See for example Ziemann, W., and Lanzendorfer, M, op. cit.; Doornbos, Martin, The African State in Academic Debate: Retrospect and Prospect,(1990) Journal of Modern African Studies, Vol.28, No. 2, pp 179- 198.
- 9 For instance, the rights to elect political leaders, to criticise one's own government, and to form political associations/parties.
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- 16 Raiser, Thomas, 'The Theory of Enterprise law in the Federal Republic of Germany', (1988) American Journal of Comparative Law, Vol.36, no.1, pp.111-129
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- 18 at pp.10-11
- 19 at p.11
- 20 at p.12
- 21 This is the essence of post industrialism arguments, Nightingale, Donald, Workplace Democracy, Toronto, 1982.
- 22 Kaunda, Kenneth D., Take Up the Challenge, Speeches made by His Excellency, The President to the United National

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- 23 President Kaunda 1973, quoted in Chikulo, B.C, 'Reorganisation for Local Administration in Zambia: An analysis of the Local Administration Act, 1980', (1985) Public Administration and Development Vol. 5, pp.73-81, at p.73
- 24 Suffern, Peter, quoted in African Concord, (1989) March 15-22, p.29
- 25 Barber, W.J., The Economy of British Central Africa: A case study of Economic Development in a dualist society, Stanford University Press, Stanford, 1961.
- 26 See the analysis of Baylies, Carolyn, and Szeftel, Morris, 'The rise to political prominence of the Zambian business class', in Gertzel, Cherry, Baylies, Carolyn, and Szeftel, Morris, op.cit., especially pp.68-69
- 27 Baylies et al, 'The rise to political prominence', p.70
- 28 Also in Meebelo, Henry, 'African Proletarians' Ch.15, p.538
- 29 See Martin Anthony, op. cit.; Chaput, Michael, op. cit.
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- 31 Zambia National Assembly Hansard, 1971, p 244
- 32 See in particular the contributions of Messers Mulenga and



Sakuhuka following Mitcheley in footnote 31.

33 Hyman, Richard, The Political Economy of Industrial Relations, MacMillan Press, London, 1989, p. ix

34 The name of the game was Zambianisation. For consequences on the mining industry, see the analysis of Daniel, Philip, Africanisation, Nationalisation and Inequality: Mining Labour and the Copperbelt in Zambian Development, Cambridge University Press, Cambridge, 1979. For reaction to Daniel see, Perrings, Charles, 'Premiss and Inferences in Labour Studies - A Zambian Example', (1982) African Affairs, Vol.81 pp.87-99.

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36 In The Nation is You, Addresses to, and resolutions of the National Council of United National Independence Party at Mulungushi, Lusaka, 4-6 March 1972, Z.I.S., p.6

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38 'The rise to political prominence', op. cit., p.71

39 Whether or not capitalists would distribute risk with the state in this manner if given choice is debatable. But there are obvious advantages of access to state patronage, for example, allocation of foreign exchange and access to

loans.

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- 52 Akashambatwa Mbikusita Lewanika, quoted in Times of Zambia, July 21, 1990, p.1
- 53 The point is: What is the theoretical value of workers' Participation policies in an economy supposedly managed on behalf of all the people in the country?
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- 60 The results of these commissions are discussed in Henderson op.cit.
- 61 See accounts in Meebelo, op. cit. especially Ch. 5
- 62 Meebelo, op. cit., Ch. 6 for details of official colonial involvement in formation of trade unions.
- 63 Gertz, 'Industrial Relations in Zambia to 1975' op.cit., pp.314-5
- 64 ibid. p.318
- 65 ibid. pp. 314-5
- 66 For an early elaboration of voluntarism see Khan-Freund, 'Labour Law', in Ginsberg, Morris (Ed), Law and Opinion in England in the 20th Century, Stevens and Sons, London, 1959
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78 On this view point, Beele, E.M, State, Trade Unions and Labour Policies- Theoretical issues and the evidence from Zambia, MA Thesis, University of Warwick, 1987, Ch. 4

79 These aspects of the Zambian labour policy are not always given sufficient attention by writers who focus on state-trade union relations. For further comments on the Zambian government's motivations for these laws see Chapter 8 below.

80 The 1964 legislation was introduced by Justin Chimba, formerly of the General Workers' Union. The situation perhaps could not have been improved upon given the prominence of trade union leaders in nationalist politics.

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- 87 *ibid*.
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- 91 The right of the Court to register collective agreements was given to the Prices and Incomes Commission in 1983 under an an amendment to the Principal Act of that year.
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- 96 Ss10 and 11 of the High Court Act.
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- 99 Hadden, Tom, Company Law and Capitalism, (2nd Ed) Weidenfeld and Nicolson, London, 1977, p.3
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- 101 For the old principles in the common law framework, Hutton v. West Cork Railway Co (1883) 23 Ch. D. 654; Parke v. Daily News Ltd (1962) Ch. 927. There is no provision in Zambia equivalent in effect to section 309 of the British Companies Act 1985.

## CHAPTER FIVE

### THE LEGAL FRAMEWORK OF PARTICIPATION: THE 1971 LEGISLATION

#### Introduction

Legislation formed an important plank in the Zambian programme to implement workers' participation in industry. In 1969, however, the details of the law in terms of the scope and nature of relations it was to create among the parties in industry were not specified. That object was accomplished by Part 7 of the Industrial Relations Act, 1971. The aim of this Chapter is to examine and analyse that legislation. By explaining the government's approach in 1971, and outlining both the procedural and substantive elements of the Act, this Chapter seeks to assess the significance of the Zambian legislation. What, if anything, did the legislation achieve to change the law of decision-making in Zambia?

As previously stressed, Zambia had no experience in workers' participation laws prior to 1971. Despite this, no attempts had been made by the government to discuss the legislative proposals widely, for instance, creating tripartite/-specialist bodies to study more systematically the different approaches to participation policies and the associated actions aimed at bringing about the widespread application of Industrial Participatory Democracy. In the circumstances, and in order to provide a basis on which to examine and assess the



Zambian legislation, it seems useful to attempt initially a general survey of workers' participation laws. There are three aspects we want to emphasise in looking at the international context of participation legislation: (A) the general assumptions underlying attempts at greater workers' participation or industrial democracy laws; (B) the divergences and their causes in national approaches to participation legislation; (C) the patterns or typologies of participation laws discernible. There is no intention, however, to describe in details the different approaches to workers' participation laws in this thesis(1). We are looking at the international materials to make two related points. First, that the position of law in participation policies reveals important differences between countries, which relate not only to national histories but also more peculiarly to the degrees of acceptance of participation practices underpinned by legislation. Secondly, that a number of contentious questions are involved in framing participation legislation, not least what to do with ownership rights, the received structure of company law and the role and influence of the trade unions. We shall also emphasise that the combination of these factors, and the way they are resolved, often determine the characteristic features of national legislation.

## 1. The International Context of Participation Legislation

### 1.1 The Assumptions of Participation Laws

The Zambian Government presented workers' participation

law as a means by which employees could be given rights and influence in decisions of companies. To what extent has this normative assumption been a feature of defining approaches to workers' participation laws in other countries? One way to approach the question is to search through the literature and ask whether there are any discernible views that stand out for isolation as the main underlying assumptions of workers' participation laws. The results of our survey may be summarised as follows: most of those who seek to define legal solutions to the question of workers' participation in industry start their definition of the problem from a criticism of the way authority and responsibility was historically distributed and sanctioned among the various elements involved in the capitalist system of production. The formal exclusion of workers in processes of company decisions is the starting point of the many political and academic views critical of the received structure of industrial governance. Thus, the assumption of the need to change the received structure of industrial governance is what appears to give workers' participation laws their historical validity, social, economic and political significance(2). Others may contest this as a partial definition of the assumptions of workers' participation laws(3), but it is one we find well represented among those who advocate greater workers' participation or industrial democracy laws.

In a study of the development of the theory of Enterprise Law, Thomas Raiser sets the scene of this view of workers'



participation laws(4). In a finding which echoes the counsel of historian, Eric Hobsbawm(5), Raiser points out that the "organisational law of economic enterprises lies in the commercial and company law as this developed during the 19th century"(6). From this perspective, Raiser sketches historically the influence of liberal conceptions of the economy on the development of commercial jurisprudence. The essence of his analysis shows that even with the rise of industrial production in the second half of the nineteenth century, the merchant of early capitalism remained the 'paradigmatic legal actor' in the minds of draftsmen of Company and Commercial Codes. This resulted in a situation in which general incorporation laws attributed the legal personality of corporations to the association of owners, with the further consequence that shareholders, like merchants and partners before them, were the only subjects of legal rights and duties arising from activities of industrial and commercial enterprises(7).

It is suggested by the same learned author that the main reason for these developments in commercial law was to 'represent and preserve' the classic theory of the market economy in the period where,

The prototype is the sole trader, who carries on his business alone or with his family, personally handles the daily work, and is personally liable for business debts(8).



Raiser's argument is that the implication of that course of development in commercial jurisprudence was to marginalise the potential role of employees in decisions of companies. In the specific context of German developments, he has summarised the 19th century juridical position of employees in commercial law thus:

Almost entirely outside the horizon of commercial and company law are the employees. The Commercial Code contains 25 paragraphs concerning the rights and duties of commercial employees and apprentices, but this is not a comprehensive regulation of the contract of employment. Labour law as a separate field has not emerged. Above all, the participation and codetermination rights of employees and unions, and their influence on entrepreneurial decisions are still unknown(9).

The underlying social and economic policies under which employees came to be marginalised in company legislation are not the issues we are interested in presently(10). The essential point expressed by Raiser is that since those formative years of industrial and commercial capitalism, interests of shareholders or investors of capital in general have set the concrete legal standards in the design of internal structures of decision making in industrial and commercial companies(11).

Against this background, workers' participation laws are

understood as deriving from the criticism of the historical legal model under which "only the entrepreneur and shareholder appear as subjects of the economic process occurring within the enterprise"(12). This thesis has relevance for much of the discussion of workers' participation laws that occurred in many countries in the 1960s and 70s. That is, the criticism of the received structure of corporate law is what galvanised intellectual and political support for corporate law reforms in the 1970s. The calls have been towards for a new framework allowing for the devolution of responsibility and authority for decision-making in companies to ordinary employees and their representatives.

In Corporation Law As If People Mattered, Christopher Axworthy concentrates on the need to change organising concepts of company law so that they acknowledge and reflect the role of employees in business companies. Writing from a Canadian perspective, Axworthy notes that,

Despite the obviously critical role of employees in any corporate activity, employees hardly exist in the Canadian corporation law view of the world(13).

From this perspective Axworthy urges "reform of corporation law to ensure that employees have a say in the management of their corporations and that their interests are adequately considered by corporations"(14).

In Britain, Bob Hepple expressed similar views when he

asked, "What About the Workers?"(15), in an angled criticism of the British law of company decisions. According to Hepple, "existing company law and labour law leave workers out in the cold, as voteless spectators in decisions which may vitally affect their lives"(16)

From Sweden, Higgins explains that the pressures for workers' participation laws in that country in the 1970s were motivated by a desire to,

narrow the bourgeois lead in power resources; generate higher ambitions and challenge bourgeois power on a broader front than that represented by the point of production(17).

Another writer on Sweden, Meidner, elaborates on what it actually meant to bring about rights of consultation, increased influence for employees and trade union codetermination rights at plant level in the Swedish economy. According to Meidner, the process of bringing workers' participation laws meant:

departing from the principle of the sole right of employers to make decisions at places of work. It meant an actual formal declaration of the nullity of the partnership Agreement of 1938. It meant the renunciation of the ideas of harmony which had dominated the Swedish labour market for more than three decades(18).

From all these various authorities, it is reasonable to conclude that workers' participation laws appear, at their



core, to express a normative principle about the rights of workers to participate in decisions of companies. Viewed as a critique of the vestiges of classical liberalism still felt in much company legislation, participation laws import, on their part, a fundamental attack at the received authority structure of industrial enterprises. To this extent, and on this point, the assumptions of participation laws in the international context were in accord with the Zambian policy statements reported in this study. Like other advocates of industrial democracy, the Zambian government was strong at criticising the capitalist system of industrial governance.

## 1.2 Divergences and causes in national state legislation

Despite the commonality of ideas with which many advocates of greater workers' participation have approached their problem, the laws enacted in different countries, exhibit different institutional structures, techniques of empowerment and even underlying philosophies(19). The question to ask is what explains the divergences in national state legislation on participation laws? There are at least two broad views which explain the divergences in participation legislation across national systems.

The first, relates to the plurality of purposes of workers' participation laws. Contrary to the impression created above, not all legislated schemes of workers' participation have been motivated by a desire on the part of policy makers

to effect changes in the historically derived structures of power in companies. In the literature on workers' participation, there is found a considerable body of research suggesting that some workers' participation programmes in industry owe their ancestry to influences of different factors. These would include, for example, prescriptions of the Human Relations School of thought(20), results of Alienation and Motivation Experiments of Industrial Psychologists(21) and philosophical beliefs of individual industrialists(22). The distinction is sometimes made that programmes of workers' participation following on these strands of influences are not underpinned by legislation(23). But the case for that view can never be made in clear cut terms because of the impossibility of ascertaining motives of individuals and groups participating in the legislative process. The possibility therefore exists that some legislated schemes of workers' participation might be informed by different arguments, or at least a mixture of them. In that case, such plurality of purposes of workers' participation laws may explain the divergences to theoretical and philosophical approaches to workers' participation laws.

The second explanation for these divergences emphasises the inherent difficulties of common approach to institutions of workers' participation under different power constellations, bargaining processes and specificity of earlier state intervention in industrial relations. This point has been expressed more forcefully by Andt Sorge in his study of the long-term



evolution of institutions of workers' participation in the European Economic Community(24). Sorge stresses the unique role of contextual factors in shaping the form and content of workers' participation laws in different countries. According to his 'constellation of constraints to rationality' thesis, approaches to workers' participation laws across national systems have been bounded by factors such as the nature of legal systems, the value systems of trade union movements, the position and strength of employer and employee organisations. Sorge found too that the way the state has historically intervened in industrial relations was crucial to attitudes to participation legislation, and determined whether legislation was enacted, and with what quality. The differences between Britain, France and Germany were taken to establish a taxonomy of the influences of historical and contextual factors on participation laws. In essence, Sorge's arguments imply that even if the functional aims of workers' participation laws were to be the same in all countries (for instance, to distribute the authority to make decisions in companies more equitably between employers and employees), it would be unlikely that the same rules and same structures of participation could be followed because each country is constrained to recognise the limitations of historical circumstances, particularly the power of employers, the disposition of trade unions, and the extent and methods by which the state had previously intervened in industrial relations.



Similar arguments have been followed by David Marsden in his examination of the cases of Germany, France and Britain. Marsden studied how proposals for workers' participation laws were approached and treated by the Biedenkopf Commission in Germany, the Sudreau Commission in France and the Bullock Committee of Inquiry on Industrial Democracy in Britain. He found that each of the above national commissions attempted to formulate solutions to the workers' participation question in accordance with the manner with which each state had previously regulated the 'frontiers of control'(25).

What has been indicated so far is that there are objective reasons why workers' participation laws occur in different forms. Different motives are at times the reason, but differences in national circumstances explain more of the existing divergences in the form and content of participation legislation. Not surprisingly, these different approaches have entailed different increases in employee representation in decisions of companies. As is explained by both Sorge and Marsden, while some historical conjunctures have facilitated greater workers' participation laws, others have been a hindrance to this development. The political circumstances of Germany at the end of the two World Wars, according to Sorge, created conditions under which workers could be given 'considerable elbow room by the state' in decisions of industry. On the other hand, in other European states, France included, the absence of favourable conjunctures meant that

state attempts at workers' participation "were too afraid of conflicts between employers and workers to prevent it, and too consciously steeped in integrative motivations to really achieve integration"(26).

This analysis of the reasons for the divergences in participation legislation is significant too for the paradox it creates: unless historical conditions and circumstances favour a larger step forward, the risk is that attachment to social values in industrial relations of the status quo ante might be exacerbated. This point was also made by Hugh Clegg. Clegg denied that implementation of the systems of worker representation on boards of companies in the United Kingdom would have similar industrial relations effects they have had in Sweden and Germany. According to Clegg, "the excellent post war industrial relations records of Sweden and West Germany are due to other features of the industrial relations systems in those two countries, especially the works councils of Germany and the centralisation of power in the confederations of both unions and employers in Sweden"(27). What is emphasized is that changing only one element of the decision process may be insufficient if other considerations, including the attitudes of labour market parties, remain unaffected.

In conclusion, what the above discussion establishes is that workers' participation laws exhibit different approaches, for different reasons and with varying consequences for the



central idea of workers' participation in management decisions.

### 1.3. Ordering the participation law typologies

To analyse the efficacy of specific national arrangements, such as were attempted by the Zambian Government in 1971, it is helpful to build, on the basis of international experience, a typology of workers' participation laws. A useful way is to attempt a crude ordering of participation laws according to different levels of acceptance of the idea of workers' participation underpinned by legislation. It is conceded that 'different levels of acceptance' as measured by the schemes of law enacted in different countries is an imprecise measure of political consensus, but it is thought that the subjectivity involved goes beyond intuition. We would argue in fact that much of the political and academic debate surrounding workers' participation policies could be interpreted and understood more in terms of an orientation towards the acceptance of law as the means to promote participation policies(28). Granted this criterion, we can distinguish three different levels of acceptance of law in workers' participation policies. These may also be presented as an ascending spectrum of A) No law, B) Management Law and C) Worker Law.

#### A) The No Law Typology(29)

(One extreme view of the position of law in workers' participation policies accepts no more than the 'liberal settlement'(30). At times called the Oxford School of



industrial relations in its British context, this perspective holds that traditional arrangements in the administration of companies which involve trade union organisations are an adequate and sufficient expression of workers' participation in management decisions(31). In general, it is a perspective critical of workers' participation laws, holding that these would disrupt the equilibrium of the production system under which;

contractual freedom and ownership define the procedure for human interaction and generate incentives for each individual to seek the most preferred solutions for himself, given other people's right to do like wise(32).

When consideration has been given to schemes of workers' participation beyond established trade union structures, the primary purpose of participation arrangements has been to engender and reinforce a sense of community between employers and the employees. The methods preferred entail voluntary management initiatives tailored to the particular history and circumstances of individual companies. The North American experience of workers' participation policies exemplifies the No Law Typology, though a great deal of these attitudes can also be detected from much of the main common law jurisdictions(33).

#### B) The Management Typology

The second view of the position of law in workers' parti-

cipation accepts some measure of state intervention and generally joins in the criticism of the 'liberal settlement' in industrial relations. It is argued that the instrumentality of collective bargaining, especially in its traditional confines to wages and conditions of service, was a poor deal forced on weak unions by powerful employers and their landed political allies in the 19th century. Alternatively, the system of collective bargaining perpetuates a conflict model of industrial relations from which modern industrial relations practice ought to escape. On either view, it is accepted that new policies and practices should be tried in order to foster at least better communication and consultation between employers and employees over and above the mechanisms provided by trade union structures. Though legislation is not considered the ideal instrument, its advantages of compelling new practices on a wider scale are acknowledged.

The workers' participation laws which establish machinery for consultation and information dissemination between workers and management are understood to flow from this strand of ideas. Most works council legislation not accompanied by changes in company legislation would fall into the MANAGEMENT TYPOLOGY category. Specifically included are works councils composed of the management and employee representatives like the ones described for France, Belgium and Denmark(34). The reason is that these cooperation councils are the real management 'sounding boards' by design. These councils are



structured so that the initiative and final powers in decisions are left firmly, in law at least, in the hands of shareholders and their management representatives.

Another set of participation laws which we could place into the MANAGEMENT TYPOLOGY are the Employee Interest Legislation. As the name suggests, this is the legislation which requires recognised organs of company management to take into account the interests of employees when making company decisions with potential implications for employee welfare and job security. A typical example is provided by British legislation.

Under section 309 of the Companies Act 1985,

The matters to which the directors of a company are to have regard in the performance of their functions include the interests of the company's employees in general, as well as the interests of its members.

Farrar points that this legislation "represents the first tentative steps towards recognising the employees' role in the enterprise"(35). There is another British legislation which requires directors of companies with more than 250 employees to state in their annual reports what they have done over the year to promote employee involvement arrangements(36).

These pieces of British legislation, like the type of works councils mentioned above, indicate minimal attempts by the different state authorities to directly influence changes



in company decisions. The efforts, however, are still constrained, to a larger degree, by a certain understanding of the place of employees and the trade unions in market economies. Within the context of British debates on workers' participation laws, Dennis Lawrence has argued thus:

In a free society, if trade unions want the rights of ownership (taken as valid criteria to rights of decision making), they cannot expect to get them as a free gift and call it industrial democracy. They will have to buy out the owners. And with the rights, they would get the obligations, too(37).

It is such reservations of managerial and ownership rights which justify the terminology employed to describe the MANAGEMENT TYPOLOGY. Decision making in industry is still regarded as the prerogative of managers and owners, though, to a limited extent, and for specified purposes, participation legislation is tolerated.

### C) The Worker Typology

The third and final strand of views on participation law may be presented as that which regards as anachronistic a legal model which places at the centre of company decision-making only the providers of capital and their representatives. Exponents of this view seek to create a new structure of rights and duties in the administration of companies. The more abstract of this seeks to recognise the enterprise as a social

system and an economic power requiring a new legal science that,

Links and combines company law and labour law in order to clarify in detail the legal rights and duties of the representatives of employees and the negotiation processes of owners, employees, and managers(38).

An example is the call by David Ellerman in the United States for constitutional decrees to reverse contractual relationships in capitalist corporations. For Ellerman, "any serious attempt to establish organisational democracy must challenge that direct control right which defines the employer-employee relationship"(39). At once we can see that there is an upward shift of the peg from ideas which make up the MANAGEMENT TYPOLOGY to those we identify as the WORKER TYPOLOGY. In the latter, there is a promise to institute fundamental changes in the authority structure of companies, similar in frame to how the Zambian Government presented its policies on participation.

Among the laws we include in the WORKER TYPOLOGY are the different Works Councils in Austria and Germany. These councils are composed wholly of employees, and possess statutory rights to decide certain matters relevant to employees. The Austrian works council in particular, with its own Works Council Fund, is reckoned by one comparative study of European Employee councils to be a powerful institution of employee governance in Austrian companies(40). Compared with works councils which are



joint institutions of workers and the management, councils which are composed only of employees are an obvious conceptual improvement in underpinning workers' participation policies by legislation. This is because a specific place is created for employees to take their own role in the decision-making process of companies.

There is also legislation in Austria, Germany, Luxembourg, the Netherlands and Sweden which requires minority employee participation on company boards of directors. Though limited, and perhaps in practice ineffectual(41), these laws, nonetheless, are symbolic of the extent to which governments of the states concerned have moved in the direction of formal acknowledgement of the rights of workers in decisions of companies. "The authority of management has not been questioned by this system of representation, but the basis of its legitimacy has changed", wrote Professor Furstenberg(42).

Parity board representation furthered by the Codetermination Act of 1976 in Germany is, in context, an extension of the normative principle of the right of workers to be represented in decision structures of companies. The same can be said of the Act on Joint Regulation of Working Life in Sweden in 1977. Building on a tradition of centralised collective bargaining, the Act opened many aspects of management decisions to the influence of employees through the medium of negotiation. The declared intention of the Swedish law was to change the exclusive right of employers to direct



work supervision and company management(43). Thus, despite its very unique technique of not prescribing areas of joint regulation, the Swedish law fits our description of WORKER TYPOLOGY - legislation with a central aim of pushing employees to the centre of decision-making in industry.

In comparison, the WORKER TYPOLOGY represents the most radical attempts to change the basis of the authority structure in companies. We should add, however, that we were aware of no jurisdiction that has operated with an overriding system of workers' participation in management decisions. None too has provided employee rights in company decisions in a single framework of participation legislation. The most renowned participation jurisdictions of Germany and Sweden have their laws contained in a multiplicity of sources, regulations and collective agreements between the unions and employers. All this points to the complexities of workers' participation laws, even in the most advanced systems. As we have stressed, many strands, social, economic and political in nature, are interwoven in the making of workers' participation laws.

#### Summary.

This section has attempted a general survey of workers' participation laws. The review was justified as a necessary background to the study of the Zambian legislation. Three points are emphasised in the discussion. First, arguments for greater workers' participation laws focus on the need to

redefine the basis of decision-making in companies. This is a normative starting point very much consistent with the Zambian official pronouncements. The second point is that in practice, workers' participation laws have come in different forms. The reasons relate to different national histories, and the purposes for which workers' participation laws are enacted. Not all laws are guided by serious intentions to change the received structure of industrial governance. There are other social and economic reasons for schemes of participation. The third and final point concentrated on discernible characteristics of the participation laws. We found that political and academic views on participation laws relate peculiarly to the degrees to which law is accepted as the means to promote participation policies. On that criterion, three different levels were identified to form a spectrum ranging from the No Law, through MANAGEMENT to WORKER typology. Of these, the latter approximate attempts at the radical transformation of power relationships between the social forces of industry. The techniques used to achieve the more radical schemes observed in Europe and Scandinavia are a combination of interlocking institutions of collective bargaining, independent works councils and company board representation. But fusing these into functional structures with recognisable results have been many extra-legal contextual factors of industrial relations, politics and social history.

How does all this relate to Zambia? The above observations



are useful because they enable us to ask relevant questions about Zambia and her legislation. First, to the extent that contextual factors, mainly of a historical type, are important variables in the design of more effective institutions of workers' participation, to what extent could a developing and former colonial state bring about a major transformation in the roles of owners, managers and workers in industry? Secondly, given the very complicated nature of participation laws even in the context of relatively stable and prosperous systems of Europe how could the political, economic and industrial relations changes introduced by the Zambian Government in the early 1970s assist the drafting of effective workers' participation laws in the country? If these questions and discussion have helped us to concentrate on the dynamics of participation laws, we can now turn to study the Zambian legislation.

## 2. The Changing Context of the Zambian Participation Laws

In 1969, the Zambian Government had insisted on fundamental changes in the inherited system of industrial governance both to realise the normative principle of the right of workers to participate in decisions of companies and to buttress higher principles of a Humanist society for which the country was striving. In this section we examine the extent to which that radical context was changing in 1971. It appears from the immediate background of the 1971 legislation that by this date the confidence of the Zambian Government to introduce fundamental changes in the law of industry had begun to wear



out. This occurred at a time when important decisions about the details of the law and how it was to affect relations of the parties in industry were supposed to be put together. The evidence of the Government's overall stifled resolve to introduce changes of the nature previously announced can be adduced from A) the official scepticism of original plans, B) the shifting of the objectives of participation laws, C) the appending of participation legislation into another statute, D) the limited industrial coverage of the law, and E) the creation of loopholes in the operation of the law. These factors may not be so remarkable individually, but taken together they show the extent to which the Zambian government was reconsidering her previously announced root and branch approach to workers' participation laws.

#### A. Official Scepticism of original plans

The first indicator of the extent to which the Zambian government had come under pressure to reconsider her scheme of participation legislation is in the personality of the Minister upon whom President Kaunda relied to see the Industrial Relations Act through Parliament. The job of introducing workers' participation legislation to Parliament in October 1971 fell on a new Cabinet Minister, brought in by a Government reshuffle of 4 June 1971(44). The Minister, Wilson Chakulya, had been the Secretary General of Zambia Congress of Trade Unions in 1969 and had remained a unionist until his ministerial appointment

in 1971.

Chakulya's appointment as a Cabinet Minister might well have been due primarily to his membership and support of the Party in power(45), but as a trade union bureaucrat he was well placed to help the Government gloss over the rough edges stemming from the Government and President Kaunda's radical presentation of workers' participation policies. In his capacity as Secretary General of Zambia Congress of Trade Unions, Chakulya came across what was said about industrial participation policies in 'dark corner meetings'(46). Once in his position, he was quick to reassure Parliament and the nation that there was no attempt at all in Government policies on workers' participation to sweep away the traditional structure of Zambian industry:

Some people have gone to the extent of labelling the idea Communist-inspired. I do not accept this line of thinking which is so obviously based on a misunderstanding. We are not establishing workers' councils, but works councils...there is no intention to punish anyone, there is no intention to grab power of management and place it in the hands of workers(47).

In his attempts to calm the political heat generated by Government pronouncements up to now, the Minister was, in effect, dishonouring all that other Government officials and President Kaunda in particular, had been saying since December

1969. From our perspective, that was not a promising signal to a legislation billed to bring fundamental changes in the administration of industry. Rather, these remarks evidenced elements of official scepticism of the reform plans in industrial relations that had been presented to the public up until now.

B. Shifting the objectives of participation law

The initial objectives of the Zambian law as presented in 1969 and restated on subsequent occasions were purely normative and doctrinal. They were intended to transform the legal position of employees in the inherited system of industrial governance. These objectives however were to change in the framework of legislation that was eventually introduced to Parliament.

First, as against the company and works council law promised in 1969, only works council structures were provided for in the Industrial Relations Act. Second, in place of the libertarian vocabulary which previously accompanied statements of the objectives of workers' participation law, the legislation stated the aims of works councils in two simple statements:

- a) to promote and maintain the effective participation of workers in the affairs of the undertaking for which such council is established.
- b) to secure the mutual co-operation of workers,



management of the undertaking and the trade union in the interests of industrial peace, improved working conditions, greater efficiency and productivity(48).

The law indeed achieved more than simplification of the stated objectives of workers' participation law. Within the letter of the law the promise of effective workers' participation in management decisions was now held to the twin object of promoting co-operation, efficiency and productivity. Thus, Zambian law was pushing strongly towards the MANAGEMENT TYPOLOGY in its underlying philosophy, a fact consistent with the official scepticism of original plans already noted.

#### C. Appending of legislation in another Act

When the industrial relations policy of workers' participation was announced, optimism was expressed by the government that a new era of labour management relations was being ushered in. What was expected was a new piece of legislation that was to express Industrial Participatory Democracy in the Zambian industrial relations system. In the event, the legislation for workers' participation came appended as Part 7 of the Industrial Relations Act. The other 9 parts of that Act dealt with trade union and collective bargaining affairs, issues that were far removed from the social and political objectives of workers' participation in Zambia.

It is curious here that the law upon which the Government put so much emphasis should come as an ancillary to other,

different, legislation. It is possible, however, that the Zambian government found the principle of consolidation attractive. It was certainly convenient to have all major statutes relating to industrial relations in one volume. There is, however, another view: that is it was politically easier to append workers' participation provisions in the Industrial Relations Act. A consolidating Act, by definition, raised far fewer new problems and could therefore be better assured of success in Parliament. In other words, workers' participation law looked more harmless appended to a larger industrial relations legislation, a strategy which was helpful to a government selling a policy which was not very attractive.

#### D. Limited industrial coverage of the law

The main objective of workers' participation policies was to promote the participation of employees in decisions of companies. From this, it would have made sense if as many enterprises as possible were contemplated to be covered by the legislation. This was the only way Industrial Participatory Democracy could be presented as an national industrial relations policy. The figure upon which a Zambian company was obliged to create participation structures was put at 100 'eligible employees'(49). This was a high number in a country which made political capital out of complaints of colonial deprivation of the industrial infrastructure. A casual comparison with European figures in the 1970s shows that the Zambian eligibility figure was far higher than the European average,



despite the fact that developed countries possessed higher numbers of enterprises employing equally greater numbers of employees. In Austria and Germany, employers were obliged to form works councils if they had a minimum of 5 permanent employees. Other figures reported were: France 10, Luxembourg 15, Denmark and the Netherlands 50, and Belgium 150 (50).

Unless one assumes that the Zambian figure was intended to be a trial experiment, the conclusion is that that figure was deliberately set high in order to leave out as many plants and enterprises as possible from the operation of the workers' participation law(51). Such a decision could have only served the purpose of mitigating political opposition to the policies of the government.

#### F. Creation of other loopholes in the law

The requirement of 100 'eligible employees' in order to trigger formation of institutions of workers' participation in companies already seemed to exclude a lot of Zambian employees from the rights to participate in decisions of industry which the government was advocating. In addition however, the legislation began in section 54 with a declaration of the power of the President "to exempt by Statutory Instrument any undertaking or class or classes of undertakings from the operation of all or any of the provisions of Part 7 of the Industrial Relations Act". There are two aspects to the law under section 54: the mention of the President himself, and the



prefacing of works council law with his powers to exempt companies from its requirements. Both of these are remarkable for their peculiarity within the machinery of the Industrial Relations Act.

First, the rest of the Industrial Relations Act refers to the Minister of Labour as the final administrative authority to whom all appeals should lie. In this respect the position of the President of the Republic in works council legislation is an odd occurrence in the machinery of the Industrial Relations Act. Secondly, the Industrial Relations Act, (Ss110-112), had imposed for the first time an obligation on every employer of 25 employees the duty to register for the purposes of collective bargaining. The law however did not exempt any companies or classes of employees from compulsory collective bargaining. Thus, the provision to exempt some companies from the operation of works council law has to be seen in a different light.

In our view, section 54 should be seen as another attempt by the Government to 'sweeten' workers' participation law. Though neither the criteria nor the procedures for exemption from works council law were laid down under Part 7, it was, nonetheless, reassuring to investors that the possibility existed for some companies to seek exemption from the Zambian workers' participation law.

### Summary

The general outline of the Zambian workers' participation

law, as we have presented it, suggests that by 1971 the government was coming to the view that it was perhaps not possible to force through the changes that seemed possible in 1969. This inference comes across from the incidences discussed above. In the following two sections, we analyse the extent to which the government's weakening position was actually reflected in the procedural and substantive aspects of the law.

### 3. Procedural Elements of Participation Legislation

The main procedural elements of workers' participation law relate to A) the formation of the institutions of workers' participation; B) the composition of these institutions; and the C) modes of interaction between the workers, trade unions, management and the councils.

#### A. Formation of works councils

The fundamental requirement of the Zambian law, in section 55, called for the formation of works councils in every undertaking employing not less than 100 eligible employees. An 'undertaking' was defined in section 3 to include:

any company, firm, business, industry, or any kind of enterprise, any statutory board or corporation or any local or public authority or any branch or autonomous division thereof.

In other words, any employer of industrial and commercial labour who satisfied the minimum number of one hundred eligible

employees was compelled under the law to form a works council.

An eligible employee was defined in section 3 to mean:

any employee other than an employee serving a trial period of probationary employment, a casual employee, an employee specifically engaged on a temporary basis for work of an intermittent or seasonal nature, or a member of the management of an undertaking.

This definition of eligible employee is understood not just as a bench mark upon which a company could form a works council, but also as creating a status regime of workers' participation law, in the sense that only eligible employees enjoy the benefits of the law. Employees classified as casual or temporary cannot participate in the affairs of institutions of workers' participation(52). In Maybin Nkwanisha V National Agricultural Marketing Board(53), the Industrial Relations Court wrote that:

As we see it the prime duty of a Works council which has been elected by the the eligible employees is to look after the interests of eligible employees(54).

In the instant case the Court denied application of the workers' participation law to a member of the management. On the basis of this authority, it would seem also to be the law that a casual or temporary worker, not being an eligible employee, is not entitled to enjoy the benefits brought by workers' participation law.



This interpretation extends the category of workers excluded from workers' participation law beyond that imposed by the 100 figure mark under section 55. This diminution of the number of persons directly affected by the law should also have implications for the meaning and quality of the Zambian workers' participation policies.

The second point we want to develop in relation to the formation of the institutions of workers' participation in Zambia relates to the extent to which the law actually compelled the relevant parties in industry to participate in the formation of works councils. Section 55(1), read together with sections 56(1)(5), places the primary obligation to form a works council on the employer of 100 eligible employees. On the other hand, the actual mechanics of getting a works council started contemplates cooperation of the trade union represented in the undertaking or of individual employees. Under sections 56(1)(5) four representatives from both sides are required to constitute a Working Party. This is an ad hoc committee with initial responsibilities for supervising the formation of works councils in individual companies. Among its specific responsibilities are to determine the sizes of works councils and to arrange the elections of employee members to works councils.

Where a company's eligible employees are represented by a union, the law states under section 56(1) that "the management of every undertaking and the trade union of which eligible employees are members, shall jointly form a working party". In

the absence of a union (a very unlikely scenario in the Zambian law), section 56(5) provides that "the management of such undertaking shall call upon the employees to appoint representatives who shall jointly with the management form a working party".

The issue which arises here is whether trade unions or individual employees could be compelled to participate in the formation of works councils? If trade unions in particular could be so compelled, what then is the relationship between institutions of workers' participation and the trade unions? Is one the subordinate of the other or are they distinct, but complementary institutions? In Claudius Sakala and Others v. Zambia Electricity Supply Corporation(55), the Industrial Relations Court expressed the view that the union was the 'mother body' of the works council. On this view of the relationship, the Court sanctioned the dismissal of employee councillors who had protested against the decision of management, in agreement with the union, to impose a different structure of works councils in the electricity corporation. Yet, if this is the true relationship between unions and the works councils, where is the procedural autonomy and distinctiveness of the works council as a structure of decision making in industry?

In sum, we have noted the limitations of the definition of eligible employee. We have also highlighted the ambiguity in the relationship between the trade unions and the works



councils.

#### B. Composition of works councils

In this section we seek to show that the composition of the Zambian works councils was flawed within the adversarial system of the common law, in the sense that this rendered councils ill-equipped to handle the rights and duties attributed to them by the Industrial Relations Act. Our assumption is that the efficacy of a structure of decision-making lies in the extent to which it can be made to act with a common interest. If the structure of decision-making is so designed that it can not possibly approach its functions with a common interest, then its efficacy is practically impaired, especially in the industrial relations systems underpinned by the common law. Here, the 'win or lose' adjudication processes of the common law reinforce the adversarial tendencies of the labour-management relationship. The object presently will be to explain the heterogeneity of the composition of works councils in Zambia. The extent to which the structures imposed by the law have affected the operation of works councils will be reviewed more fully in Chapter 6.

The composition of the works councils is governed by section 57:

Every council shall consist of not less than three nor more than fifteen members, of whom two-thirds shall consist of the members elected by the eligible employees



and one third appointed by the management of an undertaking.

There are at least three aspects of council heterogeneity involved in its composition. First, the council is composed of members from the two sides of industry in the ratio of two thirds employee representatives and one third management appointees. Second, the members come to the works council through different processes. The worker members are elected. Management members are appointed. Thus, the provisions contained in sections 58 to 60 on elections to the council apply exclusively to the two thirds employee members of the works council. These guarantee the right of every eligible employee to participate in the affairs of the works council at the election level. The trade union represented in the enterprise is given powers to scrutinise and approve employee candidates for works council office(56). But neither workers nor the trade unions have any say in the nomination of those who come to represent the management. This is so despite the view encountered above that the union is the 'mother body' of the works council.

The third dimension of heterogeneity comes with the retirement of councillors. Under section 61, employee councillors are subject to recall at the completion of two years of office. Management appointees, on the other hand, can be retained and recalled as the management wishes because there is no specific provision governing appointees of the management.

All this points to the lack of homogeneity in the works council system in Zambia, the consequences of which will be presented below.

C. Modes of works council interaction

The way institutions of workers' participation are able to interact with workers, trade union organisations and management is an important element in establishing their role as useful instruments in industrial relations. The composition, as well as the rules of procedure applicable, are essential elements in marking out the role of works councils in relation to other institutions involved in decisions of companies.

The Zambian law contains vague elements in the procedures prescribed for interactions with other institutions. First, despite the fact that works councils are composed of both workers and management, the Act fails to decide whether majority rule operates in the deliberations of the councils. Such important ground rules are left by section 62 to the council to "draw up its own rules and shall elect a chairman from among its members". There is no position of Secretary established by the Act, yet, section 68 provides "at every meeting of a council a record shall be made of all decisions, recommendations and resolutions passed by the council". The practical effect of these gaps in the procedures is to allow managers and workers to play power politics in the committees. It cannot be guaranteed that the strength of the employees



representatives on the works council alone is decisive. In fact, the way managers position themselves on the structure of works councils may well be the important factor deciding who has influence on these councils(57).

But even assuming that majority rule determines the issues before the works council, the Zambian law is still more complicated in its assumptions on how works councils are expected to interact effectively with workers, trade unions and management. In some of the provisions it comes out as though the legislator was oblivious to the fact that there were representatives of management on the works councils. For instance, under section 64 the council has a duty to "lay before a general meeting of eligible employees a report of its activities during the preceding twelve months". No corresponding duty was placed on the works council to report council decisions and their effects on the company as a whole to senior managers and the shareholders. This does not seem to create any incentives on management representatives on the councils to support the preparation and presentation of annual reports to the employees(58).

The most serious weakness in procedures providing for council interaction with other institutions comes with section 74. This section speaks of the 'watch dog' functions of the Zambian works councils. It states in section 74(1):

If a council has reason to believe that the management has



done or omitted to do any act in contravention of the provisions of this Act or any other written law, or in infringement of any provisions of a collective agreement, works agreement or works rules, affecting employees in such undertaking, the council shall forthwith inform the management of the alleged contravention or infringement.

In effect, the law purports to give the works council the right to watch over management compliance with laws, works rules and collective agreements. If management are in breach or contravention of any of these, the council is under the duty, enforceable perhaps under pain of fine or imprisonment on the part of individual councillors under section 77, to report such contravention to the management. Where a General Manager or Managing Director in the company is a member of a works council as is very possible under section 57 and, in fact, is felt desirable by employee councillors in Zambia(59), the potential efficacy of section 74(1) is almost lost because it does not make sense that the council should report violations of law to a person who is their member.

If the remedy given the works council in the face of an intransigent management under section 74 is considered, the superficiality of the law becomes very explicit. Under section 74(2),

if in the opinion of the council, the contravention or the infringement is not remedied, it shall bring it to the

notice of the trade union; and the trade union shall thereupon, negotiate an agreement as to the measures to be taken for remedying the contravention or the infringement.

What is required is that the works council as a body should complain to a trade union in the event of management failure to comply with laws, work rules or collective agreements. A third of the members of works councils in Zambia is made of the management representatives. These are usually persons who are members of the management and therefore without self interest in the protection and benefits conferred by the works council law. Given this fact, was it the expectation in section 74(2) that managers on the council would knock at the offices of shop stewards to complain about the company's failure to carry out statutory duties? Such a result would have the effect of elevating the trade union as a structure of corporate governance to a level not sufficiently recognised in the law.

### Summary

We have examined and analysed the procedures prescribed by the Industrial Relations Act pertaining to formation of works councils, their composition and modes of interaction with other institutions. On either point we find that the Zambian law was so diluted that Government pretensions to a radical transformation of the employee position in the work place can be discounted. The law indeed does not come out as having been a

result of serious logical discussions, suggesting perhaps the weakened position of the government by the time of drafting the legislation. There are other ways which could have improved the efficacy of the procedures. For example, it is an employee body which could properly report to a general meeting of workers; which could complain to a trade union organisation; and which might have a vested interest in management observance of collective agreements and work rules in the interest of employees. Thus, by creating unitary institutions of workers' participation more effective procedures might have been created(60).

#### 4. The substantive aspects of works council law

The stated reason for workers' participation policies in Zambia was to allow employee participation in management decisions of business companies. Consequently, the rights given employees in the decisions of management were supposed to be the centre piece of Zambian workers' participation law. The three sections of the Industrial Relations Act devoted to the rights of workers in decisions of management are presented below. We shall show that, in the event, no real power was given employees to influence the decisions of companies. The law was weak, inconsistent and in some areas added little to what workers already possessed through trade unions and collective bargaining.



A. Weak Participation Rights

The first substantive right of workers to participate in decisions of management came under section 70(1).

Every council shall be entitled to be consulted upon and to participate fully and effectively in all the schemes and programmes relating to the health and welfare of eligible employees in the undertaking.

Section 70(2) elaborates these schemes and programmes as including medical facilities, housing, pension, recreational, canteens and any other category of amenities which an employer may opt for the welfare of his employees.

No decision of the Industrial Relations Court has been rendered to show what section 70 entails, but a firm of Zambian Management Consultants has advised that

being consulted and participating fully does not mean management must abide by or follow decisions and recommendations of the works council. Nor does it mean that the works council can veto a management decision. What is meant is that management will consult the works council and will be availed to its decisions and recommendations on the subject at hand(61).

The alternative would be to hold that no decisions of the management in health and welfare areas could be valid without agreement of the works council. As the law stands such a result would lead to an impossible situation in the event of deadlock

between the management and works council. This is precisely because section 70 does not provide a conflict resolution procedure similar to the one provided in respect of section 72 below.

The net result of the law is a very weak scheme. The whole of section 70 should now be understood as a right to mere consultation, and the formulation "and to participate fully and effectively" as something of no precise technical content.

B. Inconsistent Participation Rights

Under section 71 the works council has rights of information. The law provides that

Every council shall be entitled to be informed forthwith in writing of all decisions taken by the board of directors, the proprietors or the management of the undertaking, as the case may be, in relation to the investment policy, financial control, distribution of profits, economic planning, job evaluation, wages policy, and the appointment of senior management executives in the undertaking.

The Act does not define the economic terms used. If we were to assume, as the legislator did, that employers and councillors would understand the full import of the law, then we had in section 71 a pure right of councillors to information on specified managerial subjects.

However, the value of that right to the works council as a

body and to individual councillors should be placed in the context of section 76. This section prohibits disclosure of any "information relating to the financial affairs of any undertaking or any manufacturing or commercial secrets or working processes thereof" acquired in the works council except in court proceedings or when disclosure is required by the authorities for the administration of the Act. Section 76 does not require an employer to specify which information is secret and, curiously, does not even contemplate disputes over interpretations about what constitutes secret information. Yet, almost all the areas in which councillors have a right to information relate in one way or another to the 'financial affairs' of companies. Since criminal proceedings are contemplated for the breach of section 76, the information given in section 71 may be used, if at all, very conservatively. Certainly, it can not be made the subject of campaigns in workers' groups. The inconsistency built to this aspect of workers participation law is thus apparent.

C. Participation Rights without substance

Perhaps the greatest powers of the works council as a body for decision making were supposed to come with the right to consent to certain decisions of management specified in section 72.

According to section 72(1),

a decision by the management on a matter of policy in the



field of personnel management and industrial relations shall be of no effect unless it is approved by the council established in that undertaking, which approval shall not be unreasonably withheld.

Section 72(2) specifies some of the areas contemplated by the law. They are:

- a) recruitment of employees in the undertaking and assessment of their salaries,
- b) transfer of employees from one undertaking to another owned by the same employer,
- c) rules as to discipline applicable to the employees in the undertaking,
- d) redundancy of employees,
- e) bonuses and incentives payable to the employees and the modes of payment, and
- f) safety of the employees subject to the provisions of any other written law.

To avoid any doubts, it should be stated that the term 'employee' under section 72 refers to eligible employees - employees who are not casual, temporary, nor part of the management under section 3. As was also confirmed in Works Council v. Management Luanshya Division of RCM Ltd(62), the works council has no power to object to the management personnel and industrial relations policies affecting non-

eligible employees, including the deployment or dismissal of senior managers. The only group of managers over which the works council has some control both on appointment and dismissal are those who, under section 75(1) are "specifically entrusted with the duties relating to personnel management and industrial relations in an undertaking"(S75(1)). Such officers "shall not be appointed or removed from office without prior consultation with the council"(63).

Notwithstanding the qualification to section 72, the law still leaves some resemblance of power in the hands of works councils. Because under section 72 works councils are given what appear to be formal powers to block management decisions in matters which are potentially controversial between employers and employees, there is an elaborate mechanism provided to resolve differences between the council and the management.

First, it is made explicitly clear in section 72(1) that the council should not withhold approval unreasonably. Second, according to section 72(3), if the council is inclined to withhold its approval, it should afford the management opportunity to explain the basis of their decision before exercising the right to veto decisions. Third, section 73(1) provides that if after a meeting with management the council still wants to refuse to consent, it must inform management forthwith in writing of its decision to refuse. Fourth, if management is aggrieved by the works council's refusal to approve their

decisions, management are obliged to refer the matter to a board of review constituted between the works council and themselves(64). Finally, under section 73(4), an appeal by either party can be made to the Industrial Relations Court from the Board of review and the Court's decision once rendered is final and binding on the parties.

There are two points to make here. The first relates to the efficacy of the procedure; the second, to the substance of section 72. Each however, is concerned with the relative hollowness of the Zambian workers' participation law.

The powers of the works council to challenge management would seem to depend crucially on who is on the council, as previously analysed in the context of the composition of works councils, and their modes of interaction. It is obvious that managers on the works council could not entertain elaborate quarrels with their General Manager or Managing Directors in the way envisaged by the procedures of section 72(3). In the event of the Chief Executive being a member of the council, there will just be no one else for the council to quarrel with because the Act does not provide a channel to the General Meeting of Shareholders. Thus, in the absence of councillors who were willing to be 'martyrs' for the workers' participation policy, there would be no one on the councils with sufficient incentives to fight cases through all the procedures to the Industrial Relations Court(65). The partiality with which the law restricted works council powers to industrial relations and



personnel policies affecting only eligible employees in the company means in addition that the scope of the procedure was limited.

The second point is that the areas in which works councils were given a measure of power were the ones in which trade unions were most likely to be interested. It should be remembered that every company which qualified to form a works council, qualified beforehand to register for collective bargaining with a registered trade union organisation under sections 110-112 of the Industrial Relations Act. In addition, under section 4 employees were guaranteed the right to form and operate unions at places of work. Indeed, the employer was placed under an obligation to facilitate trade union activities by allowing time off with full pay to employees involved in union organisation.

The missing link in the trade union law was that the functions of trade unions were not statutorily defined. The assumption we can make for this omission is that such functions of trade unions were supposed to be generally known. Yet, if the collective employee matters enumerated for works councils in section 72 were not for trade unions, what else could have justified the existence of unions at places of work?

#### Summary of the worker-power provisions

We have examined and analysed in this section the substantive rights which the Industrial Relations Act gave to

works councils as institutions of workers' participation in Zambia. We have found that the right to 'full and effective participation' under section 70 was no more than a scheme of mere consultation between employees and the management. The right to information in section 71 was contradicted by the unmitigated scope of duties of secrecy under section 76. The more promising right of councillors to block management powers in personnel and industrial relations was frustrated in effect by both the procedures involved and the concurrent rights of the trade unions.

The finding that the centre of the Zambian workers' legislation was weak, inconsistent and in some places devoid of substance is in line with the conclusions drawn on the procedures instituted to form and operate works councils, and with the way the government qualified her radical approach to the legislation as a whole.

## 5. Overall Summary and Conclusions

The object in this chapter was mainly to examine and analyse the Zambian participation legislation enacted in 1971. In approaching that Act, we reviewed workers' participation laws in their international context. This was to enable us to place the Zambian legislation in a proper perspective.

Apart from perspectives which reject law in participation policies, two other strands were examined. The main one was the more normative and doctrinal perspective which attempts to



redefine the authority structure in industry to give workers formal rights in the decisions of companies. Proponents of this view would like to see improvements in the way decisions in companies are regulated so that the rights of employees could be considered and accommodated more formerly. The laws which follow on this line of thought were called the WORKER TYPOLOGY. In reality, however, the laws are far less radical than academic outlines suggest. Nonetheless, on balance, the WORKER TYPOLOGY schemes reflect a certain degree of innovation in the search for greater workers' participation in companies. Examples of this type of laws were drawn from the different and interlocking schemes of laws adopted in Austria, Germany, the Netherlands and Sweden. The influence of historical and contextual factors in the design and operation of these laws were stressed.

The second perspective pointed to ideas in participation laws which have affinities with management desires to harness cooperation, enhance productivity and reduce employee alienation in industry. The laws flowing from these ideas were called the MANAGEMENT TYPOLOGY because these are not always intended to challenge the received structure of power in companies, but merely to establish procedures for regular consultation between employers and employees. Examples were the works councils composed of workers and the management in France and Belgium. British legislation on participation was also reasoned to belong to the MANAGEMENT TYPOLOGY.



Against this broad introduction to workers' participation laws, we sought to evaluate the Zambian legislation of 1971. The main interest was the extent to which the Act actually achieved fundamental changes in the law. To help answer this question, we described and analysed three variables. First, the context of government approach to the legislation in 1971. Second, the procedural framework adopted to build institutions of workers' participation. Third, the substantive rights given the workers in the decisions of Zambian companies.

Contrary to government promises to enact fundamental changes in the law of decisions, our finding was that the Industrial Relations Act did not offer such a fundamental change in the law. In fact, what is revealed in the analysis is a deliberate and systematic shifting of the legal framework from WORKER to a even weaker MANAGEMENT TYPOLOGY.

The Zambian government's subsequent attempts to recapture the momentum on workers' participation laws, as we shall show below, support this reading of her law. There was little in the 1971 legislation to support a meaningful programme of Industrial Participatory Democracy. The question that remains is why did the government fail to enact a better legislation given her commitment to fundamental changes in the inherited system of industrial order? We address this and related issues in Chapter 6.

## FOOTNOTES TO CHAPTER FIVE

- 1 A useful source is the Encyclopaedia of Labour Law and Industrial Relations, Kluwer, Davenport. The other is Kolvenbach, Walter, Employee Councils in European Companies, Kluwer, Davenport, 1978.
- 2 Similar conclusions were made when the authors of one British study wrote: "These findings lead us to the conclusion that much of the contemporary debate surrounding employee participation, industrial democracy and employee involvement may be traced back to certain assumptions centred around the concept of authority and underlying values and beliefs, which uphold, question or contest that authority". Dowling, Goodman, Gotting and Hyman, Employee Participation: Practices and Attitudes in North-West Manufacturing Industry, Research Paper No.27, Department of Employment, London November 1981, p.37
- 3 See below for other reasons for participation laws.
- 4 Raiser, Thomas, 'The Theory of Enterprise Law in the Federal Republic of Germany', (1988) American Journal of Comparative Law, Vol.36, no.1, pp.111-129
- 5 The Guardian, Friday 26 February 1988, pp.25-26.
- 6 Raiser, op.cit., p.111
- 7 ibid. p.112
- 8 ibid.
- 9 ibid. p.113
- 10 But see Fox, Alan, Beyond Contract: Work, Power and Trust

- Relations, Faber and Faber, London, 1974, Ch.4; Man Mismanagement, Hutchinson, London 1985, Ch. 3
- 11 Joseph, Philip, 'Management's Labour Relations Prerogatives and the Unproductive Debate', (1979) British Columbia Law Review, Vol.14, No.1, pp.75-135, for some details. Similar points have also been made in Chapter 4:4
- 12 Raiser, op. cit., pp.118-119
- 13 (1986) University of Toronto Law Journal, Vol. 36, pp392-439
- 14 p.392
- 15 (1986) Current Legal Problems, Vol. 39, pp259-268
- 16 p.259
- 17 Higgins, Winton, op.cit., p. 374
- 18 Meidner, Rudolf, op.cit., p. 359
- 19 For details see Kolvenbach, Walter, op.cit.; International Labour Organisation, Workers' Participation in Decisions Within Undertakings, Geneva, 1981
- 20 For history of the Human Relations School, see Thomason, George, A Textbook of Personnel Management, IPM (4th Ed), London, 1981; Other background papers are in Human Relations in Industry, Rome Conference, January -February 1956.
- 21 Blumberg, Paul, op.cit., Chs.2-6
- 22 Poole, Michael, The Origins of Economic Democracy, Routledge, London, 1989, Ch.5, for a more fuller explanation why some employers start participation programmes.



- 23 ILO, Workers' participation within undertakings (Oslo Symposium), Geneva, 1976, pp65-66, for an outline.
- 24 Sorge, Arndt, op.cit.
- 25 Marsden, David, Industrial Democracy and Industrial Control in West Germany, France and Great Britain, Research Paper no.4, Department of Employment, London, September 1978.
- 26 Sorge, op.cit., p.289
- 27 Clegg, Hugh Armstrong, op.cit., Ch. 10, p.442
- 28 Essentially because approaches to participation underpinned by law affect deeply-held attitudes and perspectives on the part of management, employees and unions, and by extension their academic and political supporters.
- 29 The idea of No Law Typology may not be very imaginative, but it is used to represent a strong body of view opposed to legislation in participation policies.
- 30 Borrowing the terminology from Phelps Brown, Origins of Trade Union Power, Clarendon Press, Oxford, 1983.
- 31 Note that the right of unions to be involved in decisions of companies, though a long standing practice, is not always universally accepted. There have been in recent times criticism of the liberal settlement, preferring no unions at all. For instance, Epstein, 'A Common law for Labour Relations: A Critique of the New Deal Labour Legislation', (1983) Yale Law Journal, Vol. 92, p.1357-1408
- 32 Pejovic, Svetozar, Codetermination: A New Perspective for the West, in Pejovic (Ed), The Codetermination Movement in the West, D.C Heath and Company, Lexington, 1978, p.18

- 33 Among the major Common law jurisdictions, the United Kingdom can be seen as making progress on participation legislation, a change often attributed by some to internal pressures and membership of the EEC, See Wedderburn, Lord, The Worker and the Law, Penguin Books, Harmondsworth, 1986, Chapter 1, pp.66-68; Clegg, Hugh, op. cit., Chapter 10, pp. 438-443
- 34 Kolvenbach, Walter, op.cit.
- 35 Farrar, J.H., Company Law, Butterworths, London, 1985, p.311
- 36 Employment Act, 1982, s.1 see too Wedderburn, Lord, op.cit., Ch.4, pp.289
- 37 The Third Way, Routledge, London, 1988, Ch. 7, at p.106
- 38 Raiser, op.cit., p.114
- 39 'The Employment relation, property rights and organisational democracy', in Crouch and Heller (Ed), Organisational Democracy and Political Processes, John Wiley, London, 1983, Ch. 13, at p. 268
- 40 Kolvenbach, Walter, op.cit., p.66
- 41 Batstone, Eric, and Davies, Paul, Industrial Democracy in Europe, HMSO, London, 1977; Khan-Freund, Otto, 'Industrial Democracy', (1977) Industrial Law Journal, vol.6, pp.65-84
- 42 Furstenberg, Friedrich, 'West Germany: Developments in Co-determination', in Lansbury et al (Ed), Democracy and Control in the Workplace, Longman Cheshire, Melbourne, 1986, Ch.13, at p.246
- 43 Bouvin, Ake, 'New Swedish Legislation on Democracy at the

- Workplace', (1977) International Labour Review, Vol.115, No.2, pp. 131-143; Higgins, Winton, 'Industrial Democracy and the Control Issue in Sweden', in Lansbury et al, op.cit., Ch. 14;
- 44 Petman, Jan, 'Conflict and Security', op.cit., Appendix B, p.257
- 45 Wilson Chakulya later became a prominent member of U.N.I.P., rising to the Central Committee in the 80s.
- 46 This expression is commonly used by the Party to refer to views expressed in private by opponents of the Government.
- 47 Zambia National Assembly Hansard, 1971, p.235
- 48 s.69 of the Industrial Relations Act
- 49 See Section 3(A) below for definition of this term.
- 50 ILO, 'Workers' participation in decisions within undertakings' (1981) op. cit., Appendix.
- 51 Part of the explanation is the lobbying of the Zambia Federation of Employers, especially the Commercial Farmers' Bureau. See our Ch.4,
- 52 s.58 of Act
- 53 ZICR [1979-81] 65
- 54 At p.86
- 55 ZICR [1979-81] 159, at 161
- 56 s59
- 57 For an analysis of how positions on committees can affect outcomes, see Terry, Michael, 'Shop Steward Development and Managerial Strategies' in Bain, George (Ed), Industrial Relations in Britain, Basil Blackwell, Oxford, 1983, Ch.3.



In Zambia, consideration should also be given to the effects of the structural features of the political-administrative system. In Chapter 6 we indicate particularly how at times labour-management relations were circumvented by political decisions in the country.

58 During our research we failed to secure reports of minutes from companies despite requests. The impression formed was that this is not a matter which receives proper attention in the works council system. Indeed, informality seemed more of the rule than the exception.

59 The general complaint is that senior Executives put low level managers on councils from whom the worker councillors fail to extract useful information, hence the demand for more senior managers on the councils.

60 But this too would demand substantial changes to existing industrial relations arrangements. In particular, there would be need to review the co-existence of works councils and works committees in the enterprises.

61 Machungwa and Mwamba, op. cit., p 19.

62 Case No. IRC/Appl. 5 of 1976, noted in Machungwa and Mwamba, op.cit., pp. 112-113.

63 S.75(2)

64 S.73(2)(3)

65 We return to this point in Chapter 6 below

66 S.4(2)(d)

## CHAPTER SIX

### IMPLEMENTATION AND EXPERIENCE OF THE 1971 LEGISLATION

#### Introduction

The previous chapter focussed its analysis on the scheme of legislation enacted in 1971 to implement workers' participation in Zambia. The weakness of the legislative scheme and the government's apparent withdrawal from commitment to institute fundamental reforms in the law of management decisions were stressed. The main object of the present chapter is to account for the implementation of that law and to review its experience during the period under study. The chapter will concentrate its analysis on materials which help to explain the behaviour and conduct of the Zambian state in her determination to use law to bring about Industrial Participatory Democracy.

In section 1 we set the background to the decision to implement participation legislation in 1976. The official reasons for delaying the legislation are considered and contrasted with our own explanation. We shall explain the role played by A) the originating thesis for participation policies and B) the combination of structural factors, in determining both that delay and the subsequent attitudes of the state to the 1971 law.

Section 2 turns to the actual experience of the 1971 legislation. We shall analyse and explain the opportunities

offered and problems presented by that legislation as seen through the experience of managers, trade unionists, councillors and more particularly, the Industrial Relations Court.

## 1. Background to implementation of the 1971 legislation

The 1971 workers' participation legislation came into force on May 1 1976(1). This was five years after the legislation was enacted, and some seven years after workers' participation was accepted as a national industrial relations policy. In this section, we consider and explain why there was this delay in implementing the participation law.

### 1.1 Official reasons for late implementation of the 1971 law

The official reason why legislation had to wait until 1976 is simple to state. Workers' participation in management decisions was a new form of labour-management relations in the country: as such it was necessary to allow a transitional period so that all parties could learn the new system of labour relations. Thus,

The Party and Government see the Industrial Relations Act (1971) as a great stride forward towards industrial participatory democracy, in keeping with our Humanist Philosophy. When I introduced the idea of the Act in my speech at the 1969 Kitwe Convention, I stressed the need for a period of preparation and of education for both workers and managers(2).

What is suggested is that new knowledge, understanding and appropriate attitudes were required to be developed on all



sides before workers' participation law could be implemented-  
(3).

This account is reason enough in theory to have caused the delay in implementing the 1971 legislation by even as much as five years. Transitional arrangements of that sort are a common feature of the interaction between the legislative and executive arm of government. In context, however, the explanation does not stand up to examination.

There are three main reasons why we can doubt the veracity of the official explanation for having delayed implementation of the 1971 workers' participation law until 1976. These reasons are based on A) modesty of the 1971 law; B) comparison with other concurrent developments involving Zambian workers; C) empirical findings on the quality of knowledge possessed by Zambian workers on the subject of workers' participation after 1976.

A. Modesty of the 1971 law

In order to accept the official view that considerations of education and training held up the legislation on the statute book, one has to set the time it had taken to bring the law in force against the actual scope of the law enacted in 1971. In substance, the Zambian law required management to nominate one of their members to form a committee with two others elected by workers [or a greater number in that ratio] through which discussions on health and welfare schemes could take place. The committee could receive some information from

management and through it matters already covered by collective agreements could receive further attention. The law made it plain in section 69 that all this would be done in order to promote cooperation, higher productivity and industrial peace in individual companies. In a country where employers and employer organisations together with trade unions had previously pledged solemnly to encourage such committees in their own interests(4), what was there in the law to be learned for five years? The scope of the law did not warrant a protracted period of transitional arrangements because the legislated practice did not differ very much from voluntary schemes already known in the country in 1971(5)

#### B. Comparison with other concurrent developments

The official explanation is also weakened if other developments in Zambia affecting the public in general or workers in particular are considered. One example was the introduction of the One Party State system in 1972. The idea of this was formally tabled for discussion and adoption at the National Council in March 1972. The Commission on the One Party State conducted its inquiry throughout the country from about that date to June, and on 15 October it submitted its recommendations to the government. On 17 November the government published its White Paper, and on 13 December 1972 the Second Republic was declared having passed the necessary legislation in the meantime(6). Given the declared importance of Industrial Participatory Democracy to economic and



industrial policies of Humanism, could a system which worked with that level of efficiency in other areas have failed to provide basic training on a simple structure of participation law in a period shorter than five years?

Secondly, and even more appropriately, in 1974 President Kaunda directed that Party Committees be instituted at all places of work. These were to come into operation with immediate effect. Yet, the functions of Party Committees at places of work were not, and are not, less onerous than those of the works councils(7). In January 1983, too, the President directed companies in the state sector to appoint trade union leaders on their boards of directors. Apart from the qualification of Party membership, union officials were to proceed on company boards without any requirements of training or orientation(8). Finally, though some arrangements had been made for the training of workers involved in the Self-Management legislation of 1988, very little time was allocated for training despite the level of responsibilities theoretically called for by the system of self-management(9).

Therefore, though the need for transitional arrangements could have explained the delay in implementing the 1971 law, in the particular circumstances of the Zambian legislation, that reason is not convincing. The record of the Zambian government does not seem to support such inclination to the management of transitional arrangements.



C. Empirical findings on the quality of workers' knowledge

The explanatory value of a commitment to education and training might well have been justified if later investigations into the Zambian workers' knowledge of participation law revealed otherwise. To the contrary, the Memorandum of an ILO expert on works councils invited by the Zambian Government a few years after the decision to implement the law is damning on the quality of knowledge discovered among Zambian workers. Professor Weiss writes in part of his Memorandum:

The main and by far the most important reason for the shortcomings observed in the practical functioning of the works council is the lack of adequate information and education on the role the works council has to play and on the substance of the complex issues the council is supposed to deal with. This is especially true for elected members. But is sometimes, at least to a certain extent, is also true for nominated members of management(10).

The Memorandum continues:

....new members are hardly equipped with a precise knowledge of the duties of a works council. Sometimes they do not know the Industrial Relations Act and do not even receive a copy of it. In some other cases the mere text of the Act is their only source of information...Training of the new comers is done in most cases by the senior members of the council, i.e. those who are serving the second term of office. But the expert could observe that even the

knowledge of those senior members often does not correspond to the minimum required(11).

An expert from West Germany might expect much higher intellectual and functional standards in a works council machinery than the Zambian infrastructure could probably produce. However, the observations are so basic as to cast doubt on claims that five years had been used to provide general education on the new system of labour-management relations. The only other explanation could be that the wrong education was given at a general level, with the consequence that the specifics of the 1971 law suffered(12).

For all the above reasons, it is submitted that the real reasons for delaying the 1971 law and for the other inconsistencies already observed in Chapter 5 should be found elsewhere. This is what we attempt to explain in the next section.

## 1.2 Alternative reasons for delaying participation legislation

In this section we show that the main reasons for delaying implementation of the 1971 workers' participation law lay in factors outside the needs for education and training as suggested by official outlines of workers' participation law developments. We suggest that the real reasons related to factors of the lack of political support for wholesale industrial participation policies in the country. We explain that that lack of support was founded in the decline of the social and economic value of the reasons which under-



pinned the Zambian participation policies in 1969. We also suggest that these negative attitudes to participation policies in the 1970s were reinforced by the failure of government in a One Party State to actually demonstrate the practicality of a participatory philosophy. This was so in relation to the key area of the management of state corporations.

#### 1.2.1 Political support and the decline of social and economic value of the originating thesis

The industrial relations policy of workers' participation was explained in Chapters 2 and 3 as having been one among several parallel policies taken by the Zambian government to redress grievances which had their origin in the colonial system. We understood there that the political dimension of colonial capital was a principal factor responsible for the adoption of participation policies in Zambia where, otherwise, the very limited existence of formal employment relationships would have excluded those policies from serious attention in the 1960s. What we argue here is that success of other elements of government policy in the 1970s reduced the value of industrial relations policies of workers' participation. In other words, as the social and economic basis on which participation policies were announced in 1969 began to change with the rise of indigenous elements in ownership and managerial responsibilities, the political legitimacy of workers' participation policies weakened. Consequently, the



necessity of the law to implement industrial participation policies came to be viewed increasingly as superfluous.

The Zambian government's lack of firmness and subsequent dilution of the 1971 legislation indicates, to some extent, the pressures under which she was to abandon wholesale participation policies. However, the main breakdown in the fragile political consensus that had accompanied the 1968-70 Economic Reforms among the powerful elements in the Zambian society came after the legislation had been enacted. Evidence of the internal struggle in the 1970s can be traced to how President Kaunda's rhetoric against capitalism in the domestic sphere changed in emphasis from condemnation of the foreign and expatriate managers to the indigenous forces, greatly assisted to emerge by his own post-colonial development policies.

The date of President Kaunda's turning point in his relations with the local bourgeoisie can be pinpointed to his Nation of Equals Address of December 1 1972 (13). After reference to the point that Economic Reforms, together with supporting economic and financial policies, had increased and widened the scope of participation in the control of economic power by the indigenous people, President Kaunda went on to challenge the local bourgeoisie:

...There is too much talking, even by businessmen, instead of concentrating their efforts, time and money on improving their competence in running the industrial and

commercial sector. Incompetence, laziness and sheer irresponsibility are costing the Zambian entrepreneur so much money. Lack of knowledge in the running of enterprises and the spirit of get-rich quick have destroyed the prospects of a number of them. Some of them indulge in unnecessary extravagance. They have been too quick to buy expensive cars and property before their businesses are off the ground. I warn again. Conspicuous consumption is a path to error(14).

The rest of the speech shows that this was not fatherly advice. Underneath it was political irritation with those whose circumstances had changed and who no longer prescribed, if ever they did, to egalitarian principles of Humanism and its economic and industrial policies. This became much clearer the following day when the President addressed himself specifically to national leaders, who formed the majority of indigenous businessmen any way:

Mr. Chairman and Fellow Delegates: In the life of every nation, as in the life of every man, there are moments of decision - decision to be or not to be. One of the moments for Zambian leaders is now...We are in an era of great change and great decisions which will have far reaching effects on the lives of the people of this country for many years to come(15).

The message to these people, whom he was telling yesterday to run their businesses efficiently, was that they should now



sell their enterprises or turn them into cooperatives; that they should not own commercial farms any longer; or any houses for rent(16). By this date of course, the U.N.I.P leadership had voted for the One Party State political system, and it was just two weeks from official inauguration(17).

The greatest irony of the matter, at least seen with hindsight, is that leading local investors were being persuaded to surrender their investments when the economic problems from which Zambia has yet to recover were looming on the horizon. As it turned out, low copper prices, closure of the border with Ian Smith's Rhodesia, the Middle East oil crisis and the general state of the world economy in the 1970s caused in Zambia, almost immediately, domestic problems of shortages of foreign exchange, of basic consumer goods, raw materials for industry, and increased unemployment and redundancies(18). In respect of the latter two, the Government was forced, in September 1975, to rush through the Employment (Special Provisions) Act(19), which attempted to stop indiscriminate dismissals of employees on account of the economic problems. This law obliged employers to filter dismissals of employees through district labour offices.

The point being argued is that such a coincidence of local problems served to reinforce the questioning of the value of industrial relations policies of workers' participation in the country by strengthening the hand of those inside and outside government who now openly challenged the purpose of Indus-



trial Participatory Democracy. It was reasoned that the new Zambian managers pushed in by Zambianisation policies be given the chance to grow in their jobs, acquire experience, and be able to take decisions that would produce results for the economic good of the country as a whole(20). This analysis demonstrates that the value of participation policies were questioned and challenged more emphatically after the legislation had been enacted.

#### 1.2.2 Constellation of structural Factors

Reinforcing negative attitudes towards workers' participation was the failure of government in a One Party State to translate the philosophy of participation in the overall political-administrative system. As it was observed in Chapter 4, the creation of the One Party State in Zambia in 1972 brought serious doubts on the scope and quality of workers' participation that could be achieved in the country. The doctrine of Supremacy of the Party to which UNIP subscribed entailed that there would be no meaningful institutional independence because all other power institutions in the country were obliged in law and practice to accept subordination to the Party, and by extension the decisions of the dominant personalities of the government. The irony of the Zambian developments was in the fact state intervention was prevalent in the public sector. After the nationalisation programme the state sector became the largest employer of industrial and commercial labour. This was therefore an area

where the state could have demonstrated her beliefs in the participatory democracy by allowing maximum interplay between managers and workers in the decisions of companies. The reality was far from that. As we indicated in Chapter 4, since the creation of the parastatal system in Zambia there has existed a fundamental grievance against the manner of state intervention in decisions of individual companies.

Formally, most companies in the state sector of the economy were registered under the Companies Act(21). But, unlike private companies, their boards of directors and managements did not take the important decisions which formal authority implied. This was because such important decisions were subject to general Party and government policies as well as specific directives. Ben Turok states the common practices:

Government prescribed projects and programmes, insisted on selecting locations, appointed and dismissed personnel, laid down conditions of service and set pricing policies and levels. They advocated freedom for the corporations in the choice of means in the pursuit of government identified ends(22)

Later the same author asserts,

Even in the much more streamlined structure adopted in 1978 the basic contradictions remain: the state controls the ZIMCO board, and government imposes certain policies so that there is no pure autonomy at enterprise level. Calls for greater autonomy are repeatedly made by local



settler entrepreneurs and private businessmen generally and the government periodically agrees but, in actuality, nothing changes(23).

What caused so much offence in the state sector was the unpredictable and opportunistic manner of political intervention in the affairs of individual companies. This resulted mainly from the fact that the Party, in particular, never maintained a disciplined machinery of involvement in company affairs. Thus, in the absence of coherent structures of accountability, the Party usually intervened on the basis of speculation and rumours about mismanagement and misappropriation in companies. Such allegations and the intervention they gave rise to caused offence to managers and perpetrated mistrust between these and workers, especially the more vocal ones suspected of being informers to the Party hierarchy(24). In the face of unregulated political power, even courts appeared helpless in giving firm guidance as to how responsibility had to be shared in state companies(25). In context, the talk about implementing the law of workers' participation in management decisions sounded far removed from the Zambian political and social reality of the 1970s.

At stake, in fact, was the overall system of decision-making in the country as the institutions and values of the One Party State coalesced with the liberal traditions bequeathed by the colonial system. The American based publication, Africa Contemporary Records, puts the point for



the year 1976 thus:

The major controversial issues in 1976 were the role of the Central Committee of United National Independence Party in relation to the Cabinet; the role of the parastatals (i.e state companies) and the place of private enterprise; the revolutionary changes in education contained in the report on Education for Reform; the policy of workers' participation(26); and the state of student opinion at the University of Zambia(27).

Elsewhere, but in the same year, the publication adds, The modernising elite of highly trained Zambians engaged in running the commanding heights of the economy - the parastatal corporations- or in private enterprises were irked by what they felt to be unnecessary constraints imposed by the President and the Party in their pursuit of Socialist and Egalitarian principles. The Party militants on the other hand felt that the 'conspicuous consumption' and other inequalities in the Zambian system required tougher action than the President was prepared to take(28).

In summary, we can see here what appear to have been the factors which held the Zambian workers' participation law on the statute book. There was little political support for wholesale participation policies in the 1970s. This was basically because any social and economic value which these policies held in the 1960s, had lost content in the different

circumstances of the 1970s. The failure of the new structural changes to satisfactorily address the distribution of power in the broader society also worked against implementation of the 1971 workers' participation law. Two developments could be linked directly to these oppositional forces to the speedy implementation of workers' participation laws.

One was the decision in 1974 to separate and bring into operation the rest of the Industrial Relations Act minus the workers' participation law in Part 7. The decision to separate workers' participation provisions was not controlled by considerations of education and training for the new labour-management system, but precisely because any political support which the government had to enact that law in 1971 had dwindled away for the purposes of implementing it after 1972. Thus, it was necessary to separate the more controversial part in order to implement the rest of the Act.

The other consequence was that once the state decided in 1976 to go ahead with participation laws, it did so against the good wishes of managers, trade unions and a significant portion of government officials. The net result of this strategy was to push even further the industrial relations policy of workers' participation into the realm of the state and the Party. The details of this line of development and the results gained by state and Party control of participation policies after 1976 will be introduced and assessed properly in Chapter 7.

### 1.3 Reasons for Implementing Participation Law

Against the background we have outlined, why was the law of 1971 implemented at all? The basic reason, as was the very beginning of the Zambian participation policies, lay in political expedience. To appreciate this point we need to consider the reasons and sequence of events which kept Zambian participation policies high on the political agenda beyond the 1970s. There are three main reasons: President Kaunda's personal interests; the discovery of new political rationales under the One Party system; and the coincidence of favourable international developments.

#### A. Kaunda's personal interests in participation projects

President Kaunda has had personal interest in amalgams of schemes which involve workers in industry. His corpus of writings and speeches are full of praise for schemes as varied as the Scott Bader and John Lewis Partnership in Britain, Codetermination in Germany, Self-management in Yugoslavia and others in France, Ireland, Switzerland, India and China(29). His inability to select and recommend one scheme may have been part of the problem at public policy level. But, perhaps, his real interests in social innovation in the employment sphere cannot be questioned. It would be surprising that such a strong personal interest from a dominant leader would not have helped to give life to the 1971 law and participation policies in general.



## B. Discovery of new political rationales under One Party

In 1974 President Kaunda published a sequel to his Humanism in Zambia pamphlet of 1967. We saw in Chapter three that in Humanism and a Guide to its Implementation Part 2, President Kaunda moved from the simplicity of the village model to a more ideological stance advocating seizure of industries by 'progressive managers and workers'. This point was obscure then but now it is clear that the context was in reference to the struggle with the 'modernising elites'. The explanation is as follows. Political differences on the consequences and direction of economic policies left open areas of policy, such as workers' participation, where consensus was assumed but not politically tested when they were first introduced. These differences however did not have a humbling effect, instead, they provoked political and economic radicalism among the elements in effective constitutional control. In the ensuing struggle, workers' participation and its institutions are translated into potential weapons to be used against capitalist tendencies in the domestic sphere.

These wholly new bases for workers' participation policy legitimacy, we argue, gave added impetus to the government in a One Party State to forge ahead with wholesale participation policies. The One Party state discovered for itself new political rationales for continuing workers' participation policies. This explains why the decision to implement the

1971 legislation was preceded by a renewed search for a more radical legal framework of participation. The creation of IPD in August 1975 was a logical outcome of these changes in official thinking. The law on the statute book in 1974 was not up to the tasks required for 'industrial seizure', hence, the search for a different legal framework through the agency of institutions more amenable to Party control.

C. Coincidence in international developments.

By the middle of the 1970s, the Zambian workers' participation programme also received a favourable push forward from international developments(30). As the whirlwind of Industrial and Economic Democracy swept Europe, from about 1974 to 78, the Zambian leaders could not be more delighted than to shame domestic critics of Industrial Participatory Democracy. For instance, after reciting worldwide developments, a Senior Economist at the new IPD wrote:

We are today living in an era in which the dream of equality and fair play in economic and socio-political life has fired peoples' imaginations throughout the world...If we continue to resist this wind of change for too long, we may soon find the very economic power structures we are trying to preserve being hurriedly dismantled. We should not allow that to happen to our children(31).

The benefits from international developments were more than providing moral and political support for the Zambian



leadership. The same international discussions, especially those organised by the International Labour Organisation to which Zambia had access, were concluding a worldwide 'general disenchantment with the functions of works councils'. In particular, the Oslo symposium of 1974 at which Zambia was represented, wrote in its summing that,

Many examples were given from various parts of the world to show that the works council as a concept is not, perhaps, an ideal solution to enterprise-level employer-employee relations. The discussion has shown that there are important reasons for this. One of them seems to be the purely advisory and consultative function of a works council without any real decision-making power. While some participants expressed surprise about the lack of workers' interest in the operation of works councils, others made the point that a purely advisory arrangement under which people receive information and may express an opinion, but have no influence on whether this opinion is taken into account or not is not likely to create interest or enthusiasm(32).

Such conclusions no doubt were informed by interest in the possibility of forcing changes in corporate structures which were already happening in some countries of Northern Europe, where the ILO placed the venue of the Conference. For Zambians, there were other sombre lessons too. By delaying their own law, they were now going out to international fora



only to learn about the failures of a workers' participation system awaiting them on the statute book.

The main point in all this is that despite the decline of the original rationales for participation policies and the opposition encountered, many other factors favoured a continuation of the industrial relations policy of workers' participation started in the different circumstances of 1969. More interestingly too, the new pressures in the 1970s encouraged the examination of the 1971 law.

This in a nutshell is the background against which the 1971 law was implemented in May 1976. Though the operative Statutory Instrument was meant to coincide with the May Day Celebrations of 1976, it actually gave a grace period of six months within which companies affected by the legislation were obliged to form works councils. This meant that the law did not become technically binding until November 1976. By this date, it should be emphasised, the terrain of the Zambian participation policies had changed dramatically. The search for better laws under new policy rationales was well under way even before the 1971 legislation had been tested.

The contradictions and uncertainties which surrounded implementation of participation legislation left in their wake two developments which have characterised Zambian participation policies since 1976: on the one hand, state officials, at times with consultation with labour market parties, kept searching for new workers' participation schemes; on the

other, labour market parties, with encouragement of state officials, kept attempting to implement a legislation whose fate seemed politically decided. The next section examines the actual experience of the 1971 law in the context of such ambiguous relationships between the state and other industrial relations parties in connection with this law and participation policies in general.

## 2. Practical Experience With The 1971 Law

### 2.1 Introduction

The object in this section is to analyse and explain the opportunities and problems presented by the 1971 legislation. In particular, we shall highlight and reinforce some of the conclusions which have been reached about the operation of workers' participation law in Zambia. By 1984, many of the practical problems and opportunities presented by the 1971 legislation had become familiar to trade unions, managers and the Industrial Relations Court. We have examined the documented materials in this respect, but we have also added on the results of our own investigations. We begin by looking at the opportunities which the legislation presented, then we shall examine the more general problems of the law. The final part will consider the specific legal issues which experience with the law has presented for the Zambian industrial relations system.

Before we describe these experiences, some general comment may be helpful. Anyone exploring the benefits of a workers'



participation legislation or any other participation scheme quickly encounters difficulties of assessment. The impact of workers' participation upon management decisions is not something that can be measured in any precise and quantitative fashion. Moreover, because management could have formed committees for consultation and information with employees on their own volition if they thought it would have helped with industrial relations, it is very difficult to isolate and account for the specific contribution of law to the quality and quantity of processes of information and consultation in industry.

These general points are exacerbated in the Zambian context owing to the lack of extra information about the processes of consultation and information in industry. What is known about information and consultation in Zambian industries comes predominantly from companies which fall under part 7 of the Industrial Relations Act. There is virtually no information about the industrial relations situation in the majority of enterprises which employ less than 100 eligible employees(33). This dearth of information deprives us of important variables which could have enabled us assess more usefully the contribution of law to processes of information and consultation in the Zambian industry. No attempt was made in this study to correct this anomalous position, but the dangers of exaggerating or understating the law's contribution to workers' participation need to be stressed. In this case,



we have chosen to rely on our own conclusions drawn from discussions conducted at the fieldwork stage(34).

## 2.2 Opportunities offered by the 1971 law

There are three main benefits which were cited as flowing from implementation of workers' participation legislation in Zambian industry: the encouragement of positive industrial relations attitudes; increased general education for workers; and the provision of added channels of communication between workers and employers.

### A. THE ENCOURAGEMENT OF POSITIVE ATTITUDES

It is reported that workers' participation law has fostered positive attitudes to industrial relations and more particularly to the idea of workers' involvement in the affairs of companies. We encountered this view generally and specifically.

At Specialty Foods Ltd, we were told by the Personnel Manager how management were eager to reconstitute a works council after the previous one had fallen through following a fire at the factory in 1986. The Manager, Kenny Banda, explained that the company encouraged consultation in order to improve industrial relations and to seek useful ideas from the workforce. To explain his point, he stated that in Africa when the spirit of cooperation is encouraged by law, it finds a natural ground in the cultural temperament of the people. For him, "processes of consultation were not alien to the African mental thought"(35).

These favourable views were confirmed in a separate interview with the Chairman of the works council at the same company. The Chairman, Moses Mwenya, reported employee satisfaction with the way the management of Specialty Foods had encouraged workers to make suggestions to help some of the problems of the company. He cited in particular the way employees had come up with the idea of distributing peanut seeds to local farmers in the Copperbelt region in order to forestall shortages of peanuts from the traditional supply source in the Eastern Province(36).

At a different company, Medwich Clothing Limited, we were shown some charts by the Personnel Manager, Lamford Mukumbo, which the General Manager, Murray Sanderson, uses to convey information to employees in pictorial form. These demonstrate to employees how company money is spent on dividends, on purchase of supplies, salaries and other heads of business expenditure. We were not in a position to assess the quality of information distributed and in the absence of the General Manager at the time of our visit, the Personnel Manager felt unable to give us a copy for detailed study. However, it is fair to mention that Medwich has also been running a profit sharing scheme for all employees confirmed in their positions since 1972. This may explain the company's liberal policies towards the distribution of company information, though not necessarily the quality and quantity of information given to employees.



The case for positive attitudes by managers is collaborated too by statements from the Zambia Federation of Employers who have encouraged retention of the 1971 scheme of works councils(37). The extent to which factors such as self interest, the country's economic problems or fear of imposition of radical schemes have contributed to employer assessments of consultation and information could not be verified, but they cannot be ruled out in any assessment of the Zambian experience with the participation legislation(38).

#### **B. INCREASED WORKERS' EDUCATION**

A second benefit said to have been brought by the law on works councils in Zambia are the opportunities for increased workers' education about industrial and commercial affairs. It is argued that with industrial workers composed mainly of people drifting from rural peasantry environments the opportunity to sit on a management committee and listen to how managers frame problems of industry has proved to be a source of learning about industrial life for worker councillors and those employees who attend training workshops and seminars.

The educational value of participation law was particularly expressed by Kabwe Kasase, the Director of Education at the Zambia Congress of Trade Unions and C.P.A. Banda, Human Resources Manager at Scaw Foundries Ltd and formerly Training Manager at Zambia Federation of Employers(39). The views of these men, who by occupation are inclined to emphasise educational elements, were supplemented by complaints from worker



councillors and Personnel Managers who felt that the IPD was not doing enough in the field of education to make workers know more about their rights and problems of industries(40).

The actual importance of works councils as training grounds was illustrated by a discovery which struck us incidentally when we attempted to put the fieldwork notes together. The Personnel Managers at Specialty Foods and Medwich Clothing and the Industrial Relations Officer at Zambia National Breweries were previous works councillors in their respective companies(41). Also, an Assistant Manager at one of the companies told us that their current chairman of the works council was not 'a happy man'. Apparently, when his predecessor was elevated to a senior position, this chairman led a campaign for his colleague's removal from chairmanship of the works council on grounds that 'ba mu shita' [he has been bought]. Next time when management had an opportunity for promotion in the department where he worked, the management respected his principles and passed him over. This was the reason why he was reportedly unhappy(42).

We would require a large sample to draw a general pattern out of these coincidences. Nonetheless, it is reasonable to conclude that the educational role of the works council system is widely recognised. But as the examples of personnel officers show, the learning is not necessarily always in the interest of employees. Employers have used the works council system to promote their interests in maintaining company

values and authority.

### C. ADDED CHANNEL OF COMMUNICATION

The other opportunity which works council law has presented is that of an added channel of communication between workers and employers. Communication exists between employers and trade unions, but the works council law provide an even more systematized line of communication between managers and employees. Yorum Chibwe, Deputy Secretary-General [Administration] of the National Union of Commercial and Industrial Workers (NUCIW) told us that where works councils have 'effective' worker representatives, works councils are an added source of pressure on management to adopt policies that are agreed to by the bulk of employees.

In general, however, Chibwe, whose union represents most of the employees whose companies are affected by workers' participation law(43), was critical of the value of the second channel of communication to management. He explained that it was his experience that works councils become a source of 'confusion' in the reading and interpretation of collective agreements. He cited cases at NIEC Agencies Limited in Lusaka and Nitrogen Chemicals in Kafue where the union leadership attended to sort out problems brought by "unnecessary laws"(44). This however, must be read more as a criticism of the law itself than of the avenues which the works council system presents to employees and managers.

For instance, Moses Mwenya, at Specialty Foods Limited



told us how the works council there 'convinced' the management to arrange for a private Medical Doctor to attend the company First Aid clinic on a regular basis and how, on behalf of the works council, he had appealed to the Managing Director to reduce food prices in the company canteen(45).

To be sure, there are mixed perceptions about the value of a second channel of communication to the management, but it was our impression that the works council system offered opportunities to workers to bring some of their problems to the attention of employers, even though these might have been handled through the established trade union channels.

#### Summary

In the introduction to this section we pointed to the problem of how to assess the benefits of workers' participation law. Attention was drawn to the absence of control materials in Zambia which might have enabled us to reach more firm conclusions about the contribution of the 1971 law to the processes of consultation in Zambian industries. From what we have been able to do, there is justification for the view that works councils have had some positive effects on the industrial relations of companies operating the works council system in the country. What is more difficult to assess is the actual contribution of the law to these industrial relations effects. It would seem that the general benefits reported owe more to the fact of the existence of councils in these companies than to what the law mandates. There is sufficient



evidence in literature elsewhere establishing the same positive correlation between information and consultation schemes and employee and employer assessments of the processes of industrial relations. In fact, the evidence is strongest in industrial relations systems where there is no works council legislation at all(46). One reason is that the assessments of consultative schemes must necessarily begin from the widely acknowledged prior rights of employers to unilateral control in work relations. Anything done to mitigate the effects of unilateral control rights, however small, is likely to yield favourable responses from all those who would want to encourage innovation in employment relations. Where employers and employees are compelled to stay in committees by law, subjective assessments of the benefits come almost naturally as all parties attempt to rationalise their factual situation.

Therefore, what we conclude is that the general benefits reported to have been produced by workers' participation law in Zambia should be attributed more to the fact of the existence of employer-employee councils than to the effects of the legislation itself. That is to say, the same results might have been reported even if there was no legislation requiring such committees in Zambia(47). This view of the Zambian works council system is helpful in reconciling what is claimed for the 1971 law with the severity of criticisms of that law, to which we now turn.

## 2.3 Practical Problems Presented by the Law of 1971

### 2.3.1 Introduction

In seminars and workshops since 1975, the problems of Part 7 of the Industrial Relations Act for the Zambian legal and industrial relations systems have been thrashed out, so much so that in 1983, Manfred Weiss, hired by the Zambian government to give a specialist view, conceded that,

In view of the fact that a number of weaknesses have become evident, initiatives aimed at strengthening and adjusting the system can be undertaken without further research(48).

As Weiss himself emphasised again(49), many of the problems cited about the 1971 law are not legal as such, in the sense that they raised complex technical rules. Instead, the problems of the Zambian law have involved policy decisions which the Zambian Government has either been unable or unwilling to take in order to improve and extend the 1971 legal framework of workers' participation(50). The fact that the law was flawed in its selection of conceptual and legislative structure was discussed at some length in Chapter 5. In this section we first indicate in brief the nature of problems of the law cited by practitioners. We shall then go on to substantiate the analysis in Chapter 5 by reference to the experience of works councils in the Industrial Relations Court.

### 2.3.2 Nature of the problems presented by the law

The practical problems presented by the 1971 law cannot be broken into any useful analytical categories because the criticism cuts across the whole legislation, as it must if its structural concepts were flawed. The fundamental complaint of trade unions is that the threshold of 100 eligible employees required to trigger the formation of works councils operates to exclude a large number of employees from the workers' participation law(51). For those to whom the law applies, there are some specific problems too: the lack of minimum educational standards for worker councillors; the lack of time for councillors to report to workers; the short term of office of councillors; and inadequate penalties for violation of the legislation by companies(52).

Other problems cited about this law involve structural arrangements. Examples relate to assertions that works councils have no power; the overlapping functions of unions and works councils; and rivalry between different committees at places of work(53).

While perhaps some of the irritations with the law could be removed by simple amendments, for instance, increasing the term of office from 2 to 4 years, and increasing the frequency of meetings between the works council and employees, others would require a fundamental review of the industrial relations system and political apparatuses. That would be the way to deal with problems of trade unions and works councils on one



hand, and between these and Party Committees on the other.

The Weiss Memorandum to the Zambian Government reminded it where the initiative to improve the works council system lay. Professor Weiss wrote emphatically,

Firm recommendations on how to develop the works council system can only be made after clear decisions have been taken on the aims to be pursued through this system. It is obvious that such decisions can only be taken by the Zambians themselves(54).

By the end of 1989, no firm decisions had been taken on the 1971 law. Three draft statutes(55) were known to have been drawn in an attempt to redress some of the operational problems which practitioners had identified, but these had not come to fruition due mainly to government ambivalence with the works council system(56).

### 3. Works council law in the Industrial Relations Court

One of the main allegations made in Chapter 5 was that the juridical composition of Zambian works councils made these ill-equipped to enforce the rights and privileges granted by the legislation. The analytical reason advanced was that the works council law lacked properties suitable to the adversarial adjudication process of the common law followed in Zambia. In particular, the law lacked properties of precision in the allocation of rights and duties, as well as sufficient incentives for individual councillors to take up the risks posed by the adversarial system. What we can demonstrate in

our assessment of the experience of works council law is that because of these problems of the 1971 legislation, works councils have been unable to take up the advantages offered by the Industrial Relations Court to coerce management to comply even with those limited rights which the councils were given. After a brief examination of the position of the industrial relations court in Zambia, we shall signify the exceptional absence of works councils in the machinery of the court. From there we shall explain why the composition of councils is the more likely factor for the absence of works councils in the adjudication processes of the labour court. We argue this point by showing that the reluctance of councils to pursue the management in the labour court is not because A) there are no cases of violation, B) the industrial relations court has not favoured intervention in management decisions or C) it has not imposed deterrent penalties on the management.

### 3.1 The position of the Industrial Relations Court

The Industrial Relations Court occupies a central role in the Zambian industrial relations system(57). It is both the court of first instance and of appeal in industrial relations matters. Its jurisdiction and powers are widely defined to include adjudication over all disputes arising from rights, obligations, privileges and immunities given workers as individuals or as a group by the Industrial Relations Act, 1971. This means the works council law falls squarely within the jurisdiction of the Industrial Relations Court, composed



of a legally qualified Chairman and two specialist members who may not be necessarily lawyers.

### **3.2 The exceptional absence of councils in the labour Court**

To make a successful case that the composition of works councils is a problem in the Zambian legal system, we need to show in the first place that indeed the works councils do not fight cases in the Industrial Relations Court. The evidence for this is provided by the number of cases in which works councils have been party to proceedings challenging management decisions. Such cases are very few and exceptional. Our own research into cases decided by the Industrial Relations Court in the period 1976 to 1986 has yielded only two instances:

The first one is Works Council RCM Ltd Luanshya Division v. Management (Luanshya Division RCM Ltd)(58). The works council there petitioned for a declaration that the transfer of a Mr. Hugh Campbell Arthur from Chibuluma Division of RCM to Luanshya be of no effect because the transfer did not have the approval of the works council as required by section 72 (2)b of the Industrial Relations Act. Management, however, had complied with section 71 by informing the works council of the appointment of Mr. Arthur as Manager in charge of Engineering at the Respondent's Luanshya Division. On the facts, the Court held that prior approval was not necessary because the rights of the works council under s.72 were restricted to decisions affecting eligible employees. The council had no rights in



the deployment of managerial personnel beyond mere rights of information.

The report of this case does not indicate the reasons why the works council was able to bring the case in 1976(59).

The second case is Kafue Textiles Works Council v. Kafue Textiles Zambia Ltd(60). An Industrial Relations Officer was dismissed without approval of the works council as required by s75. On the application of the works council, it was held that the dismissal, even for an officer still on probation, was a contravention of the law and consequently the respondents were found guilty and fined. It transpires in N.U.T.A.W (D.Ndhovu) v. Commercial Motors Ltd(61) that the Industrial Relations Officer in the Kafue case was himself the management representative on the works council. In the circumstances, the application by Kafue Textiles Works Council should be regarded as a case of self interest, in the sense that the council invoked its powers under pressure to preserve a colleague's job.

We have found no other evidence of cases in which the works council has been party to proceedings against the management. The companies we visited during fieldwork all denied knowledge of a works council taking its management to court. Thus, there are solid grounds for questioning why the works council council is almost absent in the machinery of the Industrial Relations Court.

### **3.3 The Unlikely reasons for the councils' absence**

#### **A. Violations of works council law**

It cannot be supposed that works councils are absent before the Industrial Relations Court because there are no incidences of violation of works council law. The number of court cases indeed always underestimate the reality of legal violation(62). Even then, there is sufficient evidence of works council law being violated. Much of this comes from the few cases that manage to filter through the adjudication machinery of the Industrial Relations Court. Three problem areas can be distinguished among the cases that come before the court:

##### **1. 'Thorn in the flesh' cases (s66)**

Section 66 of works council legislation provides that, No employee shall be discriminated against or made to suffer any penalty or disadvantage by reason of his membership of the works council.

Cases of councillors falling foul of work place rules have come before the Industrial Relations Court alleging that their selection for dismissal was purely because they were outspoken council members or, as it were, a 'thorn in the flesh' of management. Examples are Paul Gwese v Roan Consolidated Mines Ltd (Ndola Copper Refinery)(63); Jetty James Banda v Zambia Pork Products Ltd(64); and Aran Mwansa v.ROP (1975) Ltd(65). In the Mwansa case, the applicant was successful in instancing how he stood up to management on salary assessments, training



and investment policies. He also told the court how the works council of which he was Secretary caused dismissal of four 'top management' perpetrating fraud on the company. This case, and those similarly situated, indicate, to some extent, the level of management violation of works council law.

Yet, all these allegations only come to light when an individual is fighting for his job. The councils have not been shown to use the elaborate grievance procedures in sections 72-3, let alone to fight cases through to the Court. In Maybin Nkwanisha v. National Agricultural Marketing Board(66), the applicant was advised at his first visit to the Industrial Relations Court to report his grievance with the management to the works council in his company. When he did so, the court records, "the works council were dragging their feet. In March 1981, he was told they could not handle his case as their term of office had come to the end"(67). Why, it may be asked, was the council shirking its responsibility under the law?

## 2. Redundancy cases (s72 (2)d)

According to the above law any declaration of redundancy of an eligible employee without the approval of the works council is null and void [vide C.A. Jere v. ZAMHORT68]. It was also held in the case of N.U.T.A.W (D. Ndhovu) v. Commercial Motors Ltd(69) that,

Any employer who does not follow the procedures laid down in part 7 of the Act is committing an offence under section 77, but at the same time the contract of employ-



ment is not terminated and as such the aggrieved party is entitled to reinstatement if on the balance of probability he proves this(70).

However, the Industrial Relations Court having held in another case, Henry Mulando vs. National Agricultural Marketing Board(71), that an individual has no locus standi to complain about management breach of section 72(2), individuals whose rights were violated under works council law were put in legal quandary in instances where works councils were helpless in taking matters to the court.

Thus, it remained again to the Industrial Relations Court to open a window of opportunity in the law by allowing individuals to bypass what could only be the functional impasse of the works councils. This came in Mporokoso and Himoonde v. Zambia Cattle Farming Company Ltd(72). The applicants were declared redundant without the consent of the works council. As part of their evidence they brought the employee Chairman of the works council as a witness. It was held that because the testimony of the works council Chairman proved a breach of legislation on part of the management, the court could evoke rule 55 of the Industrial Relations Court (Rules) 1974, to enjoin the works council as an applicant. Rule 55 states that,

Nothing in these rules shall be deemed to limit or otherwise affect the power of the Court to make such order as may be necessary for the ends of justice or to prevent

abuse of the process of the court(73).

In effect, the court was prepared to use its discretion under rule 55 to force works councils to bring matters to the court where management breaches caused individual injuries under workers' participation law. Since this procedure calls for councillors willing to be witnesses and/or reliance on the powers of the court to summon members of the works councils, it is inherently unsatisfactory as there would always be pressure on an individual to consider not to jeopardize his colleagues' relations with the management. This is in fact the experience borne out by the next group of cases.

### 3. Watch Dog Function Cases (s74)

The implications of section 74 were commented upon in Chapter 5. It is symptomatic of the unreality to require works councils as composed in Zambia to admonish management for breaches of law, work rules and collective agreements that no examples of cases to that effect can be found before the industrial relations court.

Indeed, while strict compliance with the procedure under section 74 (2)(3) would have required the union to wait until the works council hands its cases over to the union, in practice, unions have taken on cases involving violations of law, work rules or collective agreements without reference to the prior rights of works councils under the law. As our analysis of section 72 rights in Chapter 5 indicated, part of

the explanation is that trade unions have concurrent rights in the subjects covered by section 72. The other reason is that the Industrial Relations Court itself has shown no inclination to require evidence of the works council failure to resolve breaches of the law with the management before union rights could be invoked under section 74.

In fact, the Court seems to have encouraged the process by proclaiming the principle that,

in cases where the individual has no locus standi, a claimant or applicant can under the umbrella of the union ask the court for a specific remedy as provided for under any particular section of the Industrial Relations Act(74).

This rule is consistent with the court's rather 'unsophisticated' view in Claudius Sakala and others v. Zambia Electricity Supply Corporation(75), that the union is 'the mother body' of the works council. But even assuming that that is the correct relationship, it is still confirmation of the assessment that the trade union is better able to act as a body than the works council.

#### Summary

The object of the foregoing analysis was to demonstrate that works councils were absent in the adjudication process of the Industrial Relations court not because there were no issues to bring before the court. The evidence points the other way. The ability of individual employees and trade



unions to engage the Industrial Relations court in the very areas in which councils were supposed to be active suggests that there may be factors either internal or external to works councils which destroyed the incentive for councils to stretch the legal process.

In the next two sections we seek to show that whatever the reasons, these could not possibly have included the attitudes of the Industrial Relations Court to managerial power.

B. The Industrial Relations Court and Management Prerogatives

The position of the Industrial Relations Court in matters affecting decisions of the management can be observed at two levels. There are those industrial relations cases in which decisions are overtly influenced by political intervention in management decisions. The others are the more normal exercise of management prerogatives which may still cause injury to individual employees and therefore open to legal challenge on grounds of fairness. The Court's willingness to derogate from strict enforcement of management prerogatives has depended, to some extent, on the balance of forces behind a given managerial decision complained of.

1. Cases under direct influence of political power

In the cases where the management has pleaded political 'force majeure'(76), the Industrial Relations Court, and the High Court too, have had to do a difficult balancing act between upholding the rights of individuals at work, which the

Philosophy of Humanism proclaimed, and turning a blind eye to the predicament caused by managements' political parameters. In this group of cases, the management have often indicated in defence to complaints that non-compliance with the law was a result of pressure from the government of the Republic of Zambia. Redundancy cases are an example in the public sector, where Government directed company reorganisations and closures [vide Maybin Nkwanisha v. National Agricultural Marketing Board(77); C.A Jere v ZAMHORT(78)]. In the High Court case of Mumba v Zambia Fisheries and Fish Marketing Company Ltd(79), a reduction in a Company Secretary's remuneration package as a result of Government directives was at issue. While in Tresphous Kuseya v Zambia Engineering and Contracting Company Ltd(80), the Industrial Relations Court was confronted with a dismissal of an employee induced by direct appeals to management by the Provincial and District Party hierarchy of Lusaka.

The pattern of resolving these disputes is interesting to our analysis. In Mumba and Jere, where political intervention was held to be common cause, the High Court and the Industrial Relations Court respectively upheld management pleas based on the doctrine of frustration(81). In Nkwanisha, correspondence between the Cabinet Office (ie the Government Secretariat) and the General Manager revealed that he was told to go ahead and "start negotiations with the union". The court took this as evidence that the redundancy exercise was meant to be done



with full compliance with the law and thus held that the management's failure to comply was a breach. On the other hand, in Kuseya, the court flatly refused to accept management's timidity in the face of political pressure.

In that case the applicant had marked 'NO' against the Eagle (symbol of the ruling Party) on a sample ballot paper displayed on the board on company premises in the run up to Presidential Elections in 1978. A Party Committee Member who saw Kuseya do this reported to the Party Regional Office, who interpreted the complained action as 'campaigning against the President openly'. Through a series of memoranda, the management of the company came under political pressure to dismiss the applicant from his job with the company. One of these read:

I am totally astonished by the lack of firm action taken by the management of ZECCO against Mr. Tresphous Kuseya who boldly campaigned against the President. The lack of intervention in the matter to me is an expression of the management's support for Tresphous' ill actions. In addition to firing him let him also be handed over to the police who will deal with him accordingly as provided for in the electoral laws of the country(82).

The applicant was dismissed on these threats. The Court refused to accept these grounds and ruled that marking 'NO' against the eagle did not disclose any offence against the employer and therefore ordered reinstatement of the employee



with arrears of salary.

## 2. Cases without evidence of overt political influence

In cases where the tide of political power has not been in sight, the Zambian Industrial Relations Court seems to have been more willing to take on managerial prerogatives on behalf of aggrieved employees.

In Ethel Sepiso Nyambe v. Zambia State Insurance Corporation(83) and Monica Mbao v Workmen's Compensation Fund Board(84), the husbands of the two applicants had been transferred by their different employers. The applicants asked their respective employers to find vacancies within their organisations in the towns where the husbands had moved to. In each case, the employer said attempts were made to help, but there were no openings. The Court, nonetheless, ordered on both occasions that the employer should transfer the applicant to join the husband. The argument advanced was,

Wives in any community have a marital obligation to live with their husbands wherever the husband is. To allow otherwise could be tantamount to sanctioning desertion by wives(85).

Since an employer will never know where other employers will transfer their employees, and when, such a decision was very sweeping and could have serious implications on management's ability to decide who works where and when.

Another case which may illustrate the willingness of the Industrial Relations Court in Zambia to take on management

prerogatives is Mukuka and Others v. Zambia National Provident Fund(86). The material facts are that the applicants were employed as accountants in the Fund. Later, a comprehensive job evaluation exercise was ordered into the Fund. One of its recommendations was to move the pay scale of accountants one notch up from pay scale grade 8 to 7. This was in order to attract and retain accountants in the Fund. At its first sitting after receiving the report, the Board of Directors of the Fund accepted the Report of the Job Evaluation team, including the recommendation on the pay scale of accountants. Subsequently, the Board looked again at the recommendation on accountants and decided that only professionally qualified accountants should be allowed to move to scale 7 which provided better pay. This was decided on the policy grounds of encouraging the 'unqualified' accountants also to strive for professional attainment and recognition.

The applicants, who were not qualified, contested the new distinction put on the Report by the Board of Directors. They applied to the Industrial Relations Court under section 98(g), which gives the Zambian labour court jurisdiction,

generally to inquire into and adjudicate upon any matter affecting the rights, obligations and privileges of employees, employers and representative organisations thereof.

On the facts, the court ordered that the Fund should regrade the applicants from pay scale 8 to 7 as recommended by



the Job Evaluation Report and pay arrears of salary from the date the Board first decided to adopt the report. The ratio decidendi of the decision turned on the first Board decision to accept the report and recommendations without discrimination, which was held functus officio against the Board in respect of serving employees at the time the board first considered and accepted the report.

This decision was viewed by Fund managers as imposing unacceptable limits on their rights to decide. Since under section 101(3) decisions of the Industrial Relations Court are final and binding, the Fund lawyers sought to circumvent the absence of appeal procedures with a request for a writ of Certiorari directed against the Industrial Relations Court in the High Court [vide Zambia National Provident Fund Board v. Attorney General and Others(87)]. The High Court declined to order the writ prayed for on grounds of want of jurisdiction, but it is interesting to note that its critical comments on the powers and status of the Industrial Relations Court in the Zambian judicature added weight to suggestions to change the law so that decisions of the Industrial Relations Court could be appealed against to the Supreme Court of Zambia(88).

The point to establish is that even in the wake of political intervention in management decisions, the Industrial Relations Court in Zambia has shown a willingness to take on management prerogatives. The works councils, however, are not seen to have taken up this opportunity in any great number .



C. Industrial Relations Court and Penalties on the Management

The reputation of the Industrial Relations Court in Zambia goes beyond its readiness to intervene and impose decisions on the management. In addition, the labour court has demonstrated a capability and willingness too to follow up its orders in order to ensure compliance from the management.

In National Union of Building, Engineering and General Workers (Mrs.Hlabangana) v. Hoechst (Zambia) Ltd(89), the court had ruled initially that the applicant's member had been discriminated against on account of her Zimbabwean nationality contrary to section 114 (2) of the Industrial Relations Act. Reinstatement and arrears of salary were then ordered. The respondent company paid Mrs Hlabangana her arrears of salary and subsequent monthly payments but refused to give her a job to do, in the hope perhaps that she would eventually despair and disappear.

Instead, she returned to the Industrial Relations Court. The court's decision was framed in the following words:

The court in the circumstances has decided that effective from Monday 30th November, 1981, Mrs Hlabangana should be physically reinstated in her former job (secretary) at the offices of Hoechst (Zambia) Limited. For every passing day that Hoechst (Zambia) Limited does not comply with this order, the court's order is that Hoechst will be fined K1,000 every passing day(90).

One thousand Kwacha was well over a Permanent Secretary's monthly salary in 1981. That is roughly the measure of how coercive the order was. The company simply faced financial ruin if it refused to comply.

A rather different punishment was meted in Maynard Roy Chabala v. Zambia Clay Industries Ltd(91). There the respondent's General Manager was sent to one week's jail term after the company was found to have disobeyed orders of the court to reinstate their unlawfully dismissed works councillor employee. An option of 30 days in jail for the Chief Executive was opened should the company still fail to reinstate the same applicant.

These were the sort of decisions of the Industrial Relations Court which not only bothered the legal establishment but also spread fear into the managerial power structure of the Zambian state economy(92). Powers, we argue, which went almost unnoticed by the works council system.

### Summary

We have argued in this section that the inactivity of Zambian works councils in the legal process could not possibly be accounted for by lack of violations or futility of taking cases to the Industrial Relations Court. The potential of the Industrial Relations Court in furthering employee interests in other employment law areas is evident. Individuals and trade unions with functional autonomy within the adversarial legal process of Zambia have been able to take advantage of the



powers of Industrial Relations Court in a way that seem to have been impossible for the works councils. This functional incapacity, apart from the lack of extensive substantive powers, explain the passivity of the Zambian works councils in the legal process. As argued in Chapter 5, the 1971 law was so diluted that it could not be a basis for a meaningful programme of Industrial Participatory Democracy. The foregoing analyses substantiate that analysis. Given the benefits which workers and managers saw in the works council system, the question has to be asked why the Zambian government did not act to remedy obvious loopholes in the law in order to reinforce her passionate case for workers' participation in management decisions?

#### 4. Conclusions

The object of this chapter was to account for the implementation and experience of the 1971 workers' participation law in Zambia. We have examined the background leading to the decision to implement the law in 1976. We have reviewed opportunities and problems presented by that legislation to industrial relations practitioners. Previous arguments about the composition of the works council in the Zambian legal system have further been considered by contrasting the absence of works councils in the Industrial Relations Court machinery with a demonstrated willingness and ability on part of the Zambian labour court to take serious interest in complaints of workers against managerial power.



This discussion of the experience of workers' participation law lead to conclusions that are now familiar in our account of the development of workers' participation in Zambia. The interest and enthusiasm of the government in these policies stand in sharp contrast to the Zambian state's ability to bring about the desired changes. The influence of structural factors in the paralysis remains a dominant running thread. Political considerations of colonial economic factors first raised and pushed workers' participation policies to a national industrial relations policy in 1969. The changes that followed economic reform policies nearly caused the 1971 legislation to be condemned to obsolescence on the statute book. Yet, it was due to the success of the new One Party structures to find different political rationales for participation policies that the Zambian programme of workers' participation survived. Not surprising too, the search for different laws under IPD overshadowed the implementation of the 1971 legislation and undermined whatever effects this had on industrial relations. What remains for us now is to examine and evaluate the results of government attempts to change and improve on the legal framework for workers's participation introduced in 1971. We turn to this and related points in Chapter 7.

## FOOTNOTES TO CHAPTER SIX

- 1 Statutory Instrument no. 76 of 1976.
- 2 From President Kaunda's forward to the Industrial Relations Handbook 1976, President's Citizenship College, Kabwe.
- 3 Machungwa, Peter and Mwamba, Tresford, op.cit., p.5
- 4 See Appendix B.
- 5 In 1971 the Minister told Parliament that what he was attempting in works council law was to legitimate voluntary works committees. The voluntary committees were criticised for having no legal status, no obligations and specified objectives. See Zambia National Assembly Hansard 1971, p.2333-4
- 6 For part of the time table of the Introduction of the One Party State see the briefing of the President in 'A Nation of Equals', Address by his Excellence the President, Dr K.D. Kaunda on the Occasion of the Opening of the National Council, Kabwe, December 1, 1972, pp 1-2
- 7 Among the objectives of the Party Committees at places of Work are a) to work with management to ensure that enterprises operate in accordance with the aims and objectives of the Party, b) assist management in strict business and enforcement of discipline, c) to work with trade unions to encourage the highest level of production, d) to instil political and ideological education in the minds of workers and security consciousness against crime,

- subversion and sabotage. See Machungwa et al op.cit., p.26
- 8 Times of Zambia, 14 January 1983.
- 9 For background see document, 'Major Events in the Introduction of Pilot Projects in Self-Management in Choma Milling Company and Zambia Pork Products Limited', IPD, Lusaka, 1987.
- 10 Weiss, 'Technical Memorandum to the Republic of Zambia', op.cit., p.10, para 45
- 11 ibid. para 47
- 12 For criticism of the handling of education for workers' participation see Beele, E.M., Toward Effective Workers' Participation in Zambia, LLM Thesis, University of Wisconsin-Madison, 1983, Ch.3, especially pp.91-98
- 13 Kaunda, 'The Nation of Equals', op. cit.
- 14 ibid., p.12
- 15 ibid., p.31
- 16 ibid., pp.41-45
- 17 See Republic of Zambia (National Assembly), The Report of the Special Parliamentary Select Committee, appointed July 9 1990, Lusaka, 1990, for a critical appraisal of government under the One Party system.
- 18 For recent comments on Zambia's Economic Problems, see Clark, John, Zambia: Debt and Poverty, Oxfam, Oxford, 1989.
- 19 Chapter 515 of the Laws of Zambia. See also Employment



(Special Provisions) Regulations 1975.

- 20 Of particular interest were the criticisms of wholesale participation policies by the Minister of Mines and Industry in 1976. See Report and Recommendations of the National Symposium On Industrial Participatory Democracy in Zambia, IPD, Lusaka 1976, pp.16-20. In 1977 the Industrial Development Act was pushed through by the Ministry of Mines and Industry to attract foreign investments in contradiction to the spirit of radical participation policies in IPD.
- 21 Chapter 686. Other state corporations were Statutory bodies. Though the number of this has been declining since at least 1982 with shift to incorporation of statutory bodies like Zambia Airways and Railways.
- 22 Turok, Ben, 'Control in the Parastatal Sector in Zambia', in Ndulo, Muna (Ed), Law in Zambia, East Africa Publishing House, Nairobi, 1984, p. 233
- 23 *ibid.* p 235
- 24 The Party Committees reported directly to the District Party Office thereby introducing elements of surveillance in the enterprise. This cut the trust between some workers and managers. See Aran Mwansa v. ROP (1975) Ltd below.
- 25 See the case of Mwanza v. National Transport Corporation of Zambia Ltd, [1979] ZLR 129, where powers of the board of directors and the practice by the President to appoint and

dismiss parastatal chiefs was the issue.

26 The underlining of workers' participation is our own emphasis.

27 Legum, Colin (Ed), Africa Contemporary Records: Annual Survey and Documents, Africana Publishing Company, 1977, pp B403-4

28 p.B403

29 See in particular Humanism and a Guide to Its Implementation Part 2, Ch. 13,

30 It is particularly at this point that the thesis of Shimaponda becomes relevant to this study. See Chapter 2.

31 Mukumbuta, Muliyaunda 'The historical background and the theories and practices of the Workers' Industrial Participatory Democracy', Address to the Historical Association of Zambia, Lusaka, 3 December 1977, pp.8-9

32 'Workers' Participation in decisions within undertakings, Oslo Symposium', (ILO) Labour Management Relations Series No. 48. Geneva, 1976, pp.69-70

33 The absence of balanced information about Zambian industries confirms the truism that research activities cannot be separated from the world in which they take place. Thus, preoccupation with assessment of Government policies has lead in Zambia to dearth of information on areas where public policies seem not focussed.

- 34 For similar conclusions see Machungwa et al, op.cit., Ch.3, More general information about the state of play in the 1970s-80s can be gathered from IPD Seminar reports quoted in this study.
- 35 In interview, 28 December 1989.
- 36 In interview, 29 December 1989.
- 37 Chibwe, 'Zambia Federation of Employers Views On Workers' Participation', in Report on the Five -Day IPD/ILO National Workshop on Workers' Participation, Lusaka, 19-23 November 1984, pp.183-192
- 38 Employers have been sceptical about workers' participation. If the government had not been intent on moving ahead with radical schemes, perceptions of the works councils would have been far less favourable than is reported today.
- 39 In separate interviews on 28 December 1989.
- 40 This was a view encountered generally. It reflects a perception that perhaps the government could have done more in industrial relations than promulgating rules. This, in turn, reflects on government claims that it could sort out the problems for employers and trade unions.
- 41 This information came through during exchange of 'face to face pleasantries'. These were built in in order to win confidence of interviewees on a subject of much national controversy.
- 42 We deliberately withhold the identification of the company



involved and the name of the interviewee because of the nature of the allegations.

43 As was pointed out in Chapter 1, this results from the One Union One Industry policy, and from the exclusion of Local and Central Government workers from the participation legislation.

44 In interview, 28 December, 1989.

45 *ibid*, 29 December, 1989.

46 Japanese management personnel policies more than others exemplify benefits of information and consultation. In the United States information and consultation has been used as an anti-union strategy. While in Japan the effects have been to create in-house trade unionism, in America the idea has been to treat employees in a way which makes them crave less for trade union representation. Thus, the value of consultation and information in industrial relations is exalted irrespective of the motives or mechanics of establishment. Davis, Ed, and Lansbury, Russell, *op. cit.*, contains useful information on the role of consultation and information schemes in different countries.

47 See for instance, Zambia, Ministry of Labour, Annual Report of the Department of Labour for the Year 1969, Government Printer, Lusaka, 1970, p.13, para 97 where the report praises the role of committees at places of work even when there was no legislation in force.

48 Weiss, op.cit., p.11, para 53.

49 See in particular pp.10-11, paras 7-9, where Weiss observes that "It would seem that no final decisions have yet been made in Zambia on the basic structure to be given to the national industrial relations system in the future...Such decisions are obviously of the greatest political importance...The expert has consequently refrained from expressing any opinion on these basic problems..."

50 A one time Legal Officer at IPD, obviously frustrated with drafting statutes which never come to fruition, put the matter to "lack of strong political will and to the existence of conservative lawyers in the legal drafting chambers", John Kalombo, 'The Legal Framework of Workers' Participation in Zambia', in Report on the Provincial Workshop on Workers' Participation in Decision-Making in Zambia, IPD, Lusaka, 1985, pp.27-36, 33

51 The number of employees actually covered is not known because no one has responsibility to register works councils in the country, but it has been estimated that over 75 percent of the Zambian workforce is not covered by the law, see Shimaponda, PhD, op. cit, p.589. The same author notes that there were 113 councils at the end of 1976. This grew to 279 in 1977 but by June 1983 they were at a low of 271 out of a possible 1000 establishments.

52 Machungwa et al op.cit., Ch.3, for details of the problems.

- 53 Ibid., and Weiss, op.cit., pp.10-11
- 54 Weiss, op.cit., p.11, para 52.
- 55 The Industrial Relations Acts, 1981 and 1988 by the Ministry of Labour and Social Services and Industrial Democracy Act, 1981 by the Department of Industrial Participatory Democracy.
- 56 Chapter 7, for details.
- 57 Part 10 of the Act.
- 58 Case No. IRC/App1.5 of 1976, Lusaka, noted in Machungwa et al op.cit., pp.112 -113.
- 59 Being among the first cases and coming from the mining industry, the reason must be tied to the initial enthusiasm about the rights of workers under participation in 1976.
- 60 [1979-81] ZICR 111
- 61 [1981-83] ZICR 11, at p.12
- 62 Persons who have their legal rights violated may nonetheless fail to engage the legal process for variety of reasons: ignorance, finance, time, avoidance of publicity.
- 63 [1975-78] ZICR 57
- 64 [1981-83] ZICR 79
- 65 [1981-83] ZICR 97
- 66 [1979-81] ZICR 79
- 67 at p.67



- 68 [1981-83] ZICR 1
- 69 [1981-83] ZICR 11
- 70 at p.14
- 71 [1981-83] ZICR 71, at p.74
- 72 [1981-83] ZICR 129, at p.132
- 73 The rules were issued by the Minister of labour in 1974  
under Statutory Instrument No.206 of that year.
- 74 [1981-83] ZICR 11, at p.15
- 75 [1979-81] ZICR 159, at p. 161
- 76 The expression is inexact, but highlights to some extent  
the grip of political influence, which has lead  
management to disregard the law.
- 77 Note 63 above.
- 78 Note 65 above
- 79 [1979] 2AALR 41
- 80 [1979-81] ZICR 187
- 81 See discussion of the principle in the Jere case, pp.3-4.
- 82 District Governor Samuel Wamuwi, in Kuseya, p.189.
- 83 [1981-83] ZICR 171
- 84 [1981-83] ZICR 135
- 85 In Ethel Sepiso Nyambe, p. 173.
- 86 [1981-83] ZICR 17

87 [1983] ZLR 140

88 The 1988 Draft Act accepted a provision for appeals to the Supreme Court of Zambia, later enacted as section 77 of the Industrial Relations Act, 1990. Times of Zambia, April 15 1991.

89 [1979-81] ZICR 102

90 at p. 102

91 [1979-81] ZICR 107

92 Personal information.

## CHAPTER SEVEN

### WORKERS' PARTICIPATION LAWS: AN EXPANDED PERSPECTIVE?

#### Introduction

The enactment of the Self-Management Enterprises Act, 1988(1) was one of the most important single developments in the area of participation laws since the Industrial Relations Act, 1971 and the creation of IPD in 1975. According to the Director of IPD, the project of Self-management "was initiated within the framework of the Party and its Government's policy of industrial participatory democracy or workers' participation in the decision-making process"(2). In this extent, the 1988 legislation is understood as a carrying forward of government policies started in 1969. The object of this chapter is to examine and analyse this legislation and some other attempts made by the Zambian government to carry forward and improve the rights of workers to participate in decisions of industry.

In order to evaluate these attempts and the Self-Management legislation, in particular, the organisation and objectives of the IPD department need to be presented. This department has been at the centre of government initiatives on workers' participation policies since August 1975. An understanding of the scope created for it and the way it was actually organised to spearhead workers' participation policies provides a basis for our analysis of the Zambian policy developments after 1975.



## 1. The Development, Role and Structure of IPD

### 1.1 The institutional development of the department

As long as the overall thrust of government policy remained within the framework developed in 1969, there was no need to create special institutions to supervise industrial relations policies of workers' participation in management. Thus, up until 1975 the elaboration of workers' participation policies was the work of President Kaunda and Ministers, such as the Minister of Labour, whose brief encompassed labour-management relations. However, once the context of post-independence policies shifted, the novelty and complexity of wholesale participation policies became more apparent. President Kaunda's personal crusade and moralising over the right of workers to participate in decisions of management became an insufficient basis for implementing the workers' participation in management decisions. Then the need for more intellectual and organisational resources around the workers' participation policy became more obvious than could have been realised during the policy euphoria of 1968-70. But it is the case, too, that in the middle of the 1970s the objects of the workers' participation policy in Zambia became even more mixed. That is, after the publication of Humanism and its Implementation Part 2 in 1974, the government of President Kaunda was no longer merely asserting the normative principle of the right of workers to participate in decisions of companies, as the policy had been presented in the beginning.

Equally important in the 1970s were the ideological prescriptions of UNIP to build Humanism through Socialism. This entailed policies aimed at ridding the country of capitalist production relations(3).

These strains in the Zambian policies in the 1970s are reflected both in the actual role and purpose for which IPD was created, and in the functional structure put in place to supervise participation policies. To preserve continuity of policy, the institution to spearhead industrial relations policies of workers' participation was to remain a government department. But in order to ensure that Party policies took precedence in government thinking, the supervision of the department was left to Party officials. We elaborate on these points below.

## **1.2 The role and purpose of IPD**

IPD was created to undertake the following tasks:

- a) to draw and work on a programme which will lead to active participation of workers in the running of industries or indeed any other type of economic units in accordance with the spirit and letter of the decision of the Party as seen through the Philosophy of Humanism;
- b) to select a few firms on experimental basis and carry out research on the economics of participatory democracy in such firms;
- c) to undertake study tours which should involve careful study of economic concerns which run on the lines of



industrial participatory democracy in other parts of the world;

d) to study and analyse what has been examined above and make recommendations to the Rt. Hon. Prime Minister;

e) to provide a layman's draft legislation to change the current law which is based on capitalism, from what it is today to socialism in so far as the subject of industrial participatory democracy is concerned; and

f) to use the information contained in the Philosophy of Humanism Parts 1 and 2 to see that Zambia begins to move in a practical way instead of ending in theories.

On this basis it could be supposed that the purpose of the department was to act as a 'think tank' of government on workers' participation policies. The first Director of the department, Basil Kabwe, was in no doubt as to what the role of his department was. He told the First National Symposium on Industrial Participatory Democracy in 1976 that,

It must be clearly understood that it is not the function of my department to propose and, at the same time, legislate, for workers' participation or industrial democracy. Our job is merely to recommend proposals to those in authority(4).

However, it is clear too from the remit of the department that whatever was to be recommended on the direction of participation policies had to define and incorporate the ideological imperatives of Humanism in the 1970s. These



requirements complicated an already difficult assignment for the infant department. The economy was already in deep trouble in 1975, and the inefficiency of the state sector was all too well understood to cause hostility to any measures that implied further lessening of individual responsibility in the running of the economy(5). In those circumstances, the thought that the new department should work to promote Industrial Participatory Democracy on the lines approved by the Party imposed limitations as to what it could really achieve given the impasse of previous years on the works councils.

The experience of IPD over the years should be appreciated in relation to the remit that was prescribed for it. From the start, it was put in a difficult, if not impossible, situation of promoting workers' participation in a particular, yet ill-defined specification. The result is that the department has not been able to function as an institution engaged in the search of objective information to promote public policies. The department, in fact, came to be viewed by those outside government as just an antagonistic force at the disposal of the Party against those in industry not sympathetic to government economic policies in general and the workers' participation, in particular. A key factor in IPD's inability to extricate itself from the Party and to hold itself out as an industrial relations research establishment [broadly justified by its terms of reference], was the structure of its

organisation.

### 1.3 The organisation and structure of IPD

According to the Profile of the Ministry of Labour, Social Development and Culture(6), IPD has the following establishment:

Provincial Political Secretaries	2
District Governors	8
Secretaries	10
Administrative Staff	13
Professionals	4

The research activity of the department centres around the four professional posts. The ideal situation at the department envisages the appointment of an industrial economist, industrial relations officer, industrial psychologist and a legal officer.

The experience is that the department rarely fills all the posts of the research unit at the same time due to staff turn over. When we visited the department in December 1989, Mr. C.X. Malunga was both the Assistant Director and 'legal officer'. To be fair, problems of staffing professional ranks are wide spread in Zambian government departments(7). What is unique about IPD is the imbalance between professionals on the establishment and Party functionaries. At issue is not just the ratio of District Governors and Provincial Political Secretaries to the civil service professionals, but also that the other Zambian government departments do not have Party



functionaries on their establishments. Employees of government departments are supposed to be civil servants, which Party officials like Provincial Political Secretaries and District Governors are not(8). In that context, the formal mixture of personnel witnessed at IPD has been unusual in the formal relations between Party and Government in Zambia.

Other elements in the organisation of the department also need to be highlighted. Until 1986, IPD had no particular parent Ministry. When it was created in 1975, it was placed under the office of the Prime Minister, the effective number three after the President and the Party Secretary General under the 1973 Republican Constitution(9). In 1984, IPD was moved to the Office of the President, where it remained until 1986. Under the office of the Prime Minister, there had been at various times a Cabinet Minister, a Member of the Central Committee or both given charge of IPD in addition to a politically appointed Administrative Director(10).

This kind of fusion between Party and Government structures, the duplication of appointments, and the special treatment that was accorded IPD in relation to the Office of the President led to derogatory allegations against the department. The main one was that it was an unconstitutional body(11). Attempts by the Department in 1981 to give itself statutory legitimacy under the Industrial Democracy Bill came to naught(12). It was partly to solve the image and credibility problem of the department that a decision was



taken to transfer it from the Office of the President to the Ministry of Labour and Social Development in 1986(13).

The transfer, however, did not entail integration of IPD within existing structures of the Ministry of Labour and Social Development, for instance, by placing the functions of the department within the office of the Assistant Labour Commissioner, Industrial Relations, which was administratively responsible for the rest of the Industrial Relations Act, 1971. Instead, the Department retained its structures and took along its special status on workers' participation policies into the Ministry of Labour and Social Development(14). There the functions of the department have been described thus:

The Department enforces Part 7 of the Industrial Relations Act and the Self-Management Enterprises Act 1988 of the Laws of Zambia, and implements the ideological and philosophical policies on industrial Democracy as contained in Chapter thirteen of Humanism and a Guide to its Implementation Part 2(15).

The above description shows that the position of the institution created to clarify and carry forward the Zambian participation policies was unsettled for much of the time covered by this study. From the point of view of the professional staff at the department, there have been two pressures responsible for its being maligned.

One was the sustained scepticism among influential voices in the country about the role and purpose of workers'

participation policies. One Director of the department once retorted, in relation to prominent Zambians of the 1968-70 era:

While I can understand the fears of both workers and the capital owners, I cannot, however, understand the fears of some of those people who helped in shaping up the policy of Industrial Participatory Democracy. Some actions by these people in relation to the programme of IPD are not only paradoxical but extremely discouraging to those charged with the responsibility of working out practical proposals for the consideration of the Party and Government(16).

The other was the ruling Party's insistence that its ideological prescriptions to attain Humanism through Socialism should be achieved partly through the industrial relations policy of workers' participation. Party functionaries within IPD underlined this aspect of the strain on the flexibility of the department. But the need to get in place what was ideologically acceptable to the Party effectively limited alternatives to the works council model. This was because what was ideologically acceptable was not necessarily agreeable to by private employers, state managers and the trade union leadership. Caught in this situation, IPD could not offer anything original, thereby reinforcing the perception that the department was an instrument of the Party attempting to force through impossible and unrealistic



industrial policies.

In summary, the picture being painted is that IPD was from the beginning a captive of the structural and policy struggles already under way at the time of its creation in 1975. These strains are evident both in the department's terms of reference and in the structures through which it was to operate. Viewed from this perspective, IPD was nowhere similar to the independent or tripartite research bodies on industrial democracy created in Europe in the 1970s. The Zambian body was not for assisting firms and their employees to work out the precise forms by which labour could participate in the decisions of the management. This, however, was not out of want of trying by successive officials at IPD. Whatever they attempted, as we shall show, simply stuck in the muddles of the overall political, legal and economic system, as was perhaps inevitable.

## 2. Schemes Considered in Zambia after 1975

### 2.1 Internally generated schemes

The ideas for workers' participation schemes considered in Zambia after 1975 were first generated at the First National Symposium on Industrial Democracy held at the President's Citizenship College, Kabwe, from 12 to 22 July 1976 (17).

At the end of the two weeks deliberations, the symposium drew up fifteen resolutions. Among these were the following eight:



1. Company law: The present Companies Act, Cap. 686, should be amended and if necessary repealed and replaced by a law whose provisions can facilitate the introduction of Industrial Participatory Democracy in the country's economic enterprises (recommendation 1).
2. Forms of Participation: That the selection of the forms of participation should be flexible and all parties concerned should be consulted fully on all aspects of Industrial Participatory Democracy (recommendation 12).
3. Universality of the right of participation: Workers' participation in decision making should be introduced in all economic enterprises, ranging from parastatals in which the state has 100 per cent shareholding to private companies (recommendation 2).
4. Rights of Labour: Employees shall have the right to participate in decision-making in an enterprise solely on the strength of their labour (recommendation 5).
5. Share Ownership: The collective accumulation or purchase of workers' shares should be financed from profits accruing to the enterprise or bonuses paid out to individual employees. No individual worker should be allowed to own shares in an enterprise (recommendation 6).
6. Company Board Structures: The ultimate authority in each enterprise should be vested in a Joint Representative Board composed of equal numbers of representatives of interested parties, namely, providers of capital and

workers (recommendation 7).

7. Appointment of Management: Management representatives on the joint representative board should be nominated by the management of an enterprise. This is an interim measure. The ultimate objective should aim at the election of management representatives by the entire workforce in an enterprise, where management and workers will vote together on the basis of one man, one vote (recommendation 10)

8 Shop Floor Participation: Democratic participation in each enterprise should be introduced at the work-floor level, i.e. department level, where employees should be accorded powers to elect their own supervisors and line managers (recommendation 8).

We have created heads for the recommendations that were drawn by the Kabwe Symposium and subsequently submitted to the National Council of the ruling Party in order to highlight how elementary and multifarious the Zambian discussion had become by 1976. From an external perspective, it is hard to believe that these submissions were coming from a country with participation legislation on the statute book. What is obvious is that even by 1976 many issues had not received systematic treatment, let alone the prioritisation of approaches to be followed. How could it have been possible, for instance, to legislate for all the contradictory recommendations?

Yet, one has to explain why IPD did not adopt the practice



of using the media of symposia, workshops and seminars in order to generate information for the subsequent preparation of position papers for submission to the Party, government and others interested in the participation policy. Instead, we find that it has been the strategy of the Department throughout its history to compile contradictory positions of different parties to the workers' participation debate [conveniently called resolutions] which are then tendered to the government for action. We suspect that, to some extent, this strategy also exacerbated the polarisation in the national discussion by allowing the same issues to be discussed over and over, without anyone making sense of the direction of government policy(18).

In the instant case, the ninth UNIP national council of 1976 rejected many of the proposals coming from the Kabwe meeting. The council observed and resolved that,

a) Forms of Participation: That the participation of workers in decisions of management is the preferred form of participation at this stage.

b) Appointment of Managers: The appointment of managers should be left at present into the hands of a Board of Directors or the Head of State, as the case may be.

c) Works Councils: The labour movement and the managements should be given time to establish effective works councils which directive was given to them in May, 1976, under the Industrial Relations Act, 1971.



d) Education for Participation: That greater emphasis must be laid not only on political education, but also on intensified familiarisation and teaching of both the workers and management officials on responsibilities that are attendant to increased worker participation.

e) Companies Act, Cap 686: That appropriate amendments be made to the Companies Act, Cap. 686 of the laws of Zambia, to facilitate the implementation of workers' participation.

f) Equity Participation: That given the importance of proper planning for possible workers' participation in equity, a Special Commission consisting of representatives of the Party and Government, the management, and the labour movement should be constituted to formulate a comprehensive programme for consideration by all parties concerned(19).

1976 was the year President Kaunda presented ideas on a new society based on the principles of 'COMMUNOCRACY', a peoples' economy. Generally, it has been understood that the ninth UNIP national council was one of the most acrimonious Party meetings to take place in the 1970s as the capitalist and socialist elements of the ruling Party clashed openly on industrial policies(20). After this Council meeting, the scope of what could be done by IPD on workers' participation policies was narrowed. Apart from going back to the now discredited works council scheme, the only other options

remaining on the table were the Company law and Equity Participation projects.

Of the two, only the Company law project survived to the 1980s. The work of the Special Commission on Equity Participation ran against the grain of Party policy not to breed individual capitalists, as is well understood from both the Kabwe resolutions on share ownership and the decision of UNIP national council on forms of participation. Thus, the project on Equity Participation, presumably proposed originally by UNIP 'moderates', died a natural death and was virtually forgotten by the middle of the 1980s(21).

Efforts to change company law under the National Working Party on the Companies Act, formed jointly by the Ministry of Commerce and Industry and the Law Development Commission, persisted until at least July 1987. From the records of proceedings it would seem that the Company law project eventually stalled too because IPD and UNIP failed to advise on the legal formula through which government participation policies could have been accommodated in the company law model.

There is evidence of letters written to the Party Secretary General by the Chairman of the Committee, Professor Patrick Mvunga, but no replies are on file. On the other hand, Dr Chambo, a Provincial Political Secretary, who represented IPD on the committee managed merely to emphasise the primacy of government policy to have company law changed in order to



carry forward participation policies. But he furnished no suggestion as to how the exercise could be done in the legal, political and economic realities of Zambia in the 1980s(22).

Finally, the prospects of participation policies in Zambia through the medium of company law were virtually closed by memorandum referenced LDC/101/2/44 dated 22 July 1987 from the Law Development Commission to the Director of IPD. Written by the Ugandan Commissioner Francis Kermitt, it argued essentially that since it was not Government policy to deny private enterprise and its system of control, it was not possible to implement participation policies under the Zambian company law legislation. The letter made it plain that such legislative decisions were technically difficult and worse, harmful to the country because of the potential to hinder private and foreign investment. Instead, the Commission advised that participation policies should be pursued in a different legislation whose concepts and manner of implementation could be harmonised with social and economic ideas of workers' involvement in decisions of companies(23).

The decision of the Law Development Commission in 1987 should be viewed in the light of President Kaunda's directive in January 1983. Then President Kaunda directed that trade unions should be represented on all boards of directors of state companies. One reason why that decision was taken was that the President anticipated the direction of changes to company law predicated on the work of the National Working



Party on Company Law(24). What it means now is that there will be no law to enforce the scheme of trade union representation on state companies. Despite the complaints about 'institutional legitimacy' from the trade unions, the practice of trade union representation on boards of state companies was still followed in 1989(25). Very little, however, can be said favourably about the Zambian trade union board representation system. From the workers' point of view, the scheme merely augments the status of trade union officials from headquarters who dominate interlocking directorships in the state companies. More generally, the scheme does little to alter President Kaunda's practice of appointing board members to state companies from different institutional backgrounds. The criterion he has insisted on is that board members should be members of his ruling Party or at least be supporters of his policies. It was one of Kaunda's conditions that the trade union board members should be members of UNIP. This is the criterion which really mattered because this alone perfected the command structure of the political and economic system built in Zambia since the 1970s. Therefore, any gains of board membership by employee representatives has to be evaluated within the structures of the political-administrative system.

In the final analysis, all the recommendations of the 1976 national symposium and other subsequent discussions aimed at moving the framework of participation policies beyond the 1971 legislation can be seen as having come to nothing. The

government, in fact, had realised the difficulties on its policies far earlier. In 1982, they sought the assistance of the ILO under its Regular Budget for Technical Cooperation.

## 2.2 The ILO Missions.

Reference was made in Chapter 6 to the work of Manfred Weiss. Professor Weiss' mission in Zambia was closely linked with, and took place at the same time as, another ILO mission by Professor Stanslav Grozdanic(26). While the Weiss mission was to advise on the functioning of the works council system introduced by the Industrial Relations Act, 1971, Grozdanic aimed to study and submit detailed proposals for experimenting the introduction of workers' self-management.

As might be expected, Professor Weiss' mission was centred in an area which had already caused anguish to the Zambian government. Seven years after creating IPD, there was little to show for this government infrastructure. Any hopes that might have been placed on the ILO mission on works councils evaporated with the weight of Professor Weiss's submissions. After studying the "various tendencies of the present discussion on works council system in Zambia"(27), Weiss told the Zambian Government, in substance, to make her own choices among the competing paradigms of workers' participation schemes before they could receive useful advice from outsiders on that and other allied institutions of industrial relations. To be sure, Weiss was not as blunt as that but it would be difficult to put a different interpretation on his



overall assessment:

The expert would like to repeat once again that the discussion on the possible changes of the law as indicated above cannot be limited to the works councils but has to take into account the interdependence between the works council system and collective bargaining on the one hand and the interdependence between works council system and worker representation on boards on the other. Inconsistencies within the overall system of participation and industrial relations, which could hamper the decision-making process, should be avoided(28).

Professor Grozdanic's mission did not encounter the domestic policy problems which greeted Weiss in the country. Self-management had no precedents in Zambia, and as soon as it was clearly understood that Grozdanic's experiments would be confined to few selected pilot state companies, his field of operation was saved from political passions evoked by policies intended to cover the whole industrial relations system. The relative ease with which self-management legislation followed in 1988 confirmed both the extent to which self-management ideas struck accord with Party policies in IPD and the success, this time, of government strategies to circumvent political opposition to participation policies(29).

Since the Self-Management Act of 1988 has been the only significant piece of legislation to appear in the aftermath of the creation of IPD in 1975, it is appropriate that we should



focus on this legislation. We should examine and evaluate how the 1988 law carries forward and improves the rights of workers to participate in decisions of the management.

### 3. The Self-Management Enterprises Legislation, 1988

#### 3.1 Introduction: Theoretical perspectives on self-management

Politically, the arrival of the Self-Management Act in Zambia was supposed to fulfil a long standing objective of the Zambian government, and of President Kaunda, to "bestow upon every worker the right to fully participate in the control and management of the enterprise in which he works and on which he depends for his livelihood"(30). According to Professor Stanislav Grozdanic himself, the essence of workers' self-management is "the creation of a system of relations in which individual workers, in association with their fellows, directly manage the means, conditions and results of their labour and achieve control over the totality of social relations in the community"(31). Under the theory of self-management enterprise system, "the means of production are no longer independent economic forces beyond the control of those who work with them; management is no longer separate from execution; and the disposal of the products of labour is no longer separated from direct participation in their production"(32).

By these definitions, it is supposed that the fundamental criterion for the attainment of a self-management enterprise system is the degree to which control of decisions is the

responsibility of employees. This perspective of company decisions and company law differs materially from the common law set up of company decisions followed almost exclusively in Zambia prior to the legislation in 1988.

The common law model of economic enterprises puts the shareholder as the conceptual centre piece of company decisions and company management. The self-management system on the other hand, places the employee as the foundation of company decisions and company management. Therefore, what was attempted by the Zambian government in the self-management legislation was theoretically the most radical of any paradigms of workers' participation legislation known in the world(33). The latter was certainly intended to go beyond the original works council law under the Industrial Relations Act. Though the 1971 law brought some changes which entitled Zambian employees to rights to information, consultation and, in limited respects, to veto management decisions(34), the inherited company legislation still provided the basic organising principles. Under the common law scheme, the shareholders' General Meeting, the Board of directors and company officers form the principal organs of decision making(35). Weaknesses in the works council law of 1971 ensured that traditional structures of industrial management persisted in the country, despite the programme of workers' participatory in the country since 1969.

The question we want to ask of the new legislation is how



far does it actually alter the hierarchical system of decision making already known and practised in Zambia. Indeed, to what extent does the Zambian legislation achieve theoretical and philosophical aspirations of systems of workers' self-management?

To answer these questions, we shall first outline the purpose and structure of the Self-Management Enterprises Act. Second, we sketch the constitutional organs of decision-making provided under the legislation. Third, we explore the composition and powers of the various organs of decision making provided for self-management companies. Fourth, we discuss what all the provisions granting powers to different organs entail for the rights of workers in the Zambian scheme. In the final section we assess the contribution of the 1988 legislation to the furtherance of Zambia's workers' participation policies.

### **3.2 The Self-Management Enterprises Act Outlined**

#### **3.2.1 Objects of the Self-Management Law**

According to the preamble to the legislation, the object of the self-management law is to regulate self-management enterprises in the country, and in particular to:

- a) empower the President to declare any state enterprise to be a self-management enterprise
- b) define the functions and powers of self-management enterprises;
- c) provide for the management and administration of self-



management enterprises;

d) provide for the exemption of any state enterprise or self-management enterprise from the provisions of any written law; and;

e) provide for matters connected with or incidental to the foregoing.

### 3.2.2 Structure of the Self-Management legislation

The Self-Management Act has 34 sections, divided into five parts. Part 1 contains the citation and definition sections. Part 2 provides the mechanism through which the state can establish self-management enterprises; it defines the corporate status of these enterprises and outlines some of the constitutional organs. Part 3 is concerned with the general administration of self-management companies. It provides for the formation of the Management Committee, Sub-committees of the Management Committee, and creates the offices of the Managing Director and Secretary. Part 4 identifies the sources of funds for self-management enterprises, and outlines the procedures for accountability of finances in individual self-management companies. Finally, Part 5 deals with the miscellanies of the legislation, regulating such matters as names; the dissolution of SMEs; the powers of issuing further regulations; and the exemption of these enterprises from the operation of both the Companies and Industrial Relations laws of Zambia(36).

To be read together with the parent Act are the Self-

Management Enterprises Regulations of 1988. These regulations, identical for all companies, were issued under powers conferred on the President under section 34(1)(37), and form an important part of the structure of the self-management laws.

### 3.3. The constitutional organs of a self-management enterprise

The Constitutional organs of a company are defined to include the offices or structures of governance which a company is obliged to create, together with any other external agencies with a direct bearing on the decision making process of the company under the enabling law. Under this definition, there are nine constitutional organs sharing the decision making function in the Zambian SME. These are the Employees Conference; the Standing Committee of the Employees Conference; the Employees Board of Directors; the Management Committee; the 7 Sub-committees of the Management Committee; the Managing Director; the Secretary; the Advisory Council of the SME; and the President of the Republic.

### 3.4 Composition and Powers of Constitutional Organs

#### A. The Employees' Conference

The Employees' Conference of an SME is composed of representatives of all the employees(38) of the enterprise. These are elected to the Conference by the whole employee body of the company. The maximum number of elected employee delegates permitted in an enterprise with more than fifty employees is fifty. Where a company has less than fifty



employees, it is permitted only to elect a third of these to the Employees' Conference under section 5(2).

The Employees' Conference is, under section 5, the overall policy making body of the SME. The Conference is required to meet once in a year, and is presided over by a Chairman elected among the members of the Employees' Conference itself. The functions of the Conference are generally to "exercise the corporate powers of a self-management enterprise", and in particular to:

- a) formulate policies for the smooth operation of a self-management enterprise;
- b) consider and where appropriate, approve the development plans of a self-management enterprise;
- c) consider and approve the investment plans of a self-management enterprise;
- d) elect members of the Employees' Board of Directors; and
- e) give directives to and exercise control over the Employees' Board of Directors.

#### B. Standing Committee of the Employees' Conference

As the name suggests, this organ is a derivative of the Employees' Conference, in the sense that it is composed of persons elected among the members of the Employees' Conference. The required numbers on the Standing Committee, under section 8, is five to ten members.

According to section 8(2) the statutory duties of the Standing Committee are:



- a) to hear and determine any appeal from any decision made by or on behalf of the Employees' Board of Directors.
- b) to confirm, vary or set aside any disciplinary decision made by the Board, or make such other order as it may consider necessary.

In short, the Standing Committee of the Conference is not an intermediary of the Conference in management decisions, but a quasi-judicial body of the self-management company.

C. The Employees' Board of Directors

The Employees' Board of Directors of a self-management enterprise is appointed by the Conference of Employees, and approved by the President of the Republic under section 9. According to section 10 the board is composed of the following eight persons:

- a) one representative nominated by the Party Committee;
- b) one representative nominated by the trade union operating at a self-management enterprise;
- c) four employees of the SME;
- d) one representative nominated by the local community; and
- e) one representative from the department of Industrial Participatory Democracy.

The duties of the Employees' Board of Directors are both general and specific. The board is charged with the duty, under section 12(1), generally to supervise the operation and management of a self-management enterprise. Specifically, the

Board has the following functions under section 12(2):

- a) to supervise the Management Committee and the Managing Director in the performance of their functions;
- b) to consider and approve where appropriate the annual budget of a self-management enterprise in accordance with the development plans of an enterprise as well as those of the national development plan of Zambia;
- c) to be responsible for approving the raising of new capital;
- d) to approve where appropriate the appropriation of surplus funds;
- e) to consider and approve where appropriate any alteration in the administrative organisation, structure and establishment of a self-management enterprise;
- f) to recruit, employ and provide for the training of, employees for a self-management enterprise; and
- g) determine the terms and conditions and salaries of employees of a self-management enterprise.

D. The Management Committee

The creation of the Management Committee in a self-management enterprise is envisaged by section 18 of the Act. The Management Committee is the executive organ of the SME. In that capacity, the Management Committee has responsibility for the administration of the affairs of the enterprise. Under sections 19(1)(2), it is composed of the Managing Director (also its Chairman), the Secretaries of Sub-committees of the

Management Committee, and such number of employees as may be appointed by the Employees' Board of Directors. The committee is regulated by section 20(1) to meet at least once every month to review, and decide on, the affairs of the SME.

E. Sub-Committees of the Management Committee

Under section 21, the Management Committee shall establish Sub-committees for the purpose of performing its functions under the Act. However, the Management Committee is specifically obliged to form the following Sub-committees:

- a) Financial Sub-Committee
- b) Legal and Administrative Sub-Committee
- c) Social and Personnel Sub-Committee
- d) Development and Planning Sub-Committee
- e) Marketing Sub-Committee
- f) Technical and Production Sub-Committee and
- g) Security and Safety Sub-Committee

It is provided under section 21(2) that these Sub-committees should be headed by a full-time Secretary and should be provided with such other administrative and operating staff as deemed necessary to the performance of their functions. The Management Committee may also, under section 21(3), delegate to any of the Sub-committees such of its functions as it considers fit.



F. The Managing Director

The office of the Managing Director is created by section 22 of the Act. The post holder is the Chief Executive of a self-management enterprise and therefore individually responsible for the overall day to day administration of the affairs of the enterprise. Specifically, the Managing Director is obliged, under sections 22 to 23, read together with regulations 41 and 44, to exercise control over the acts and proceedings of all employees of a Self-management enterprise; to initiate disciplinary action against any employee; and where necessary, to recommend dismissal of any employee. He is also responsible for coordinating the functions of the various sub-committees set up by the Management Committee.

Under section 22(1) and regulation 42, the Managing Director is nominated for appointment by the Employees' Board of Directors among the candidates applying for the post, and is popularly elected by a majority of votes cast by the Employees' Conference. According to section 22(2), the Managing Director holds office "on such terms and conditions as may be specified in his contract of employment". But in certain circumstances specified in the proviso to section 22(1) and regulation 43, the Managing Director may be appointed by the President of the Republic. This would be the case where the President initially declares a state company to be a self-management enterprise or where the Employees' Conference has failed to elect a Managing director. In the

circumstances where the Managing Director is appointed by the President, the incumbent holds office, according to regulation 43, "at the pleasure of the President". In all other instances, regulation 42(4) provides that:

The Chief Executive shall remain in office for a full term(39) as long as he has not resigned or been found guilty of misconduct by a court of law or has incapacitated himself in any other way and the Employees' Board of Directors certify him as incapable of carrying on his duties as Chief Executive efficiently.

G. The Secretary

Under section 24, each SME is to appoint a Secretary. The Secretary, according to section 24(2), "shall be responsible for the administration of the day to day affairs of the enterprise under the general supervision of the Managing Director". The Minister's regulations are more specific on the duties of the Secretary. It is his function, under regulation 30, to conduct elections of the Chairman of the Employees' Board of Directors. Regulation 40 requires him to act as the link between the Advisory Council of a self-management enterprise and the other constitutional organs created by the law.

H. The Advisory Council of the SME

Section 13(1) states that "there shall be an Advisory Council for every self-management enterprise which shall consist of not less than three and not more than five persons



who are not employees or members of the Board". According to sections 13(2)((3), the Council members are to be appointed by the President among persons with "wide experience in business and management". The tenure of office for the Council members is determined too by the President, who is also responsible for fixing the amount of allowance or remuneration payable to Council members under sections 14 to 15. In addition, the President is given powers to remove any person from membership of a self-management Advisory Council(40).

Regarding duties, the Advisory Council is, under section 16(1), to,

monitor the performance of the SME and give such advice as it considers necessary for the attainment of the objects of the enterprise.

In carrying out these statutory duties, the Advisory Council may delay, for at least one month, the implementation of any decision made by any organ of the SME under section 16(2) and regulation 38. These powers may be exercised in situations where the Advisory Council thinks that the decision taken by the other organ of the SME is not "in the best interests of the enterprise". Under those circumstances in which the Advisory Council blocks decisions of other constitutional organs, the enterprise organ which had made the decision complained of is obliged to review its decision within the one month period. In the event of failure by that organ to resolve its dispute with the Advisory council, the



subject of the dispute must be referred by the complaining organ to the President. The President retains however the right to consult the Advisory Council on any matter relating to the running of a self-management enterprise at any time. The law on these points is contained in sections 16(2)(3).

#### I. Office of the President

The office of the President of the Republic features in several places of the Act as one of the important sources of authority in the management structure of a self-management enterprise. Beyond the powers to declare a state company as a self-management enterprise under section 3(1), and powers generally to set the political climate within which economic institutions operate, the President has other important powers directly relevant to the actual running of a self-management enterprise. These powers are:

- a) Power to approve the composition of the Employees' Board of Directors under section 9.
- b) Powers to appoint, remunerate and remove members of the Advisory Council of a self-management enterprise under sections 13 to 15.
- c) Power to appoint a Managing Director in certain circumstances specified by section 22 and regulation 43.
- d) Power to resolve disputes between the Advisory Council of the SME and other constitutional organs of decision making provided by section 16(2).
- e) Power to make regulations for the better carrying out

of the purposes of the self-management law under section 34(1).

f) Power to give directions in writing to the Employees' Conference, Board of Directors, Management Committee or the Managing Director as to how they should discharge their functions provided by section 34 (3).

#### 4. Discussion of the Power Structure in the SME

##### 4.1 Comparison with the Company law model

Classical company law represents the structure of corporate decision making as a pyramid. The General Meeting of shareholders at the base elects a Board of Directors. The board in turn selects the senior management, who in their turn engage operational staff(41). Together, the General Meeting, the Board and Senior Management form the core organs of the company structure of decision making. Under the company law model followed in Zambia, the relationships between the general meeting, the board and senior management is regulated by the interaction of the Companies Act, the Memorandum and Articles of Association and general rules of contract law and commercial agency.

Between the various organs of company administration, the General Meeting of shareholders is the principal organ of company decisions with formal powers to vote for important decisions in the life of a company(42). In addition, by virtue of the common law interpretation of the contract contained in the Memorandum and Articles of Association, a shareholder in a



commercial and industrial company has the right to petition other shareholders, the company or its agents to comply with the regulations of the company of which he is a member(43). These formal rights of a shareholder to directly intervene in the managerial decisions of his company affirm, in the common law scheme of company law, the sovereignty of a shareholder.

Until the SME legislation in 1988, there was no law in Zambia tampering with this pyramid structure of corporate power. The nationalisation measures and the works council legislation of 1971 were all carried out in a context which respected capitalist principles of commercial organisation. Thus, notwithstanding the points made earlier about the Zambian case fitting the scenario described by Paul Blumberg about the political inspiration for workers' participation, there had been no actual repudiation of capitalism and its form of organisation in Zambian industries. The SME legislation outlined above sought to change all this by attempting to make the employees the conceptual centre-piece of company decision-making. Under that legislation the Employees' Conference resembles the General Meeting of shareholders. The Conference, like the General Meeting, is composed of the supposed primary beneficiaries of the self-management organisation - the company employees. As the General Meeting is the principal organ of control in the capitalist scheme of commercial and industrial organisation, the Employees' Conference is also given formal powers to



exercise the corporate powers of a self-management enterprise and to direct the Employees' Board of Directors. To the extent that the Zambian legislation sought to make employees the repository of company decision-making powers, it appeared to be in accord with the supposed theoretical and philosophical aspirations of systems of workers' self-management.

The Zambian law however failed to follow a simple reversal of the pyramid structure found in capitalist organisations. The outline of the legislation given above shows that the Zambian Act created instead a system of countervailing blocks of power. The most important of these are the Employees' Conference, the Employees' Board of Directors, the Managing Director, the Management Committee, the Advisory Council and the President of the Republic. The efficacy of the SMEs as the instruments for carrying forward government policies on workers' participation needs to be examined in the context of the structures mandated by the legislation. To what extent does the countervailing power-block model make the workers and their representatives the main instruments of decision-making in the Zambian system of workers' self-management?

#### 4.2. Implications of the countervailing power-block model

The main criticism of the countervailing power-block model followed in the Zambian legislation is that it fails in practice to mark out, in more distinct terms, the lines of responsibility over company decisions between the various organs which the legislation creates. This, at any rate, is

the view seen from the simplicity of the hierarchical model postulated by traditional management structures and the company law model which underpins them.

Part of the problem blurring the lines of responsibility between the various constitutional organs is to be attributed to the repetition in the statutory language. This is particularly so in relation to the language used to empower the Managing Director, the Management Committee, the various Sub-committees, with their mandatory full-time Secretaries, and the office of the Company Secretary proper.

The main underlying problem, however, would seem to lie in the lack of discrete functions to justify some of the institutions created by the statute. The Employees' Board of Directors and the Advisory Council of the SME provide a good example. Half of the members of the Employees' Board are persons who are potentially non-employees of the SME(44). What extra value, it may be asked, does a permanent Advisory Council provide which could not be made a function of the selection process of outside Board members? Furthermore, since the Board does not run the 'day to day affairs' of the SME, what is its actual role if it would not be to advise and block irresponsible decisions?

These remarks do not imply that in practice there will be no meaningful scheme for overall company supervision in the Zambian SME. Rather, what seems reasonable to suggest in the circumstances is that in the absence of a standardised and



visible line of authority, effective management of the SME will fall into opportunistic power centres. This means, individuals, one organ or possibly a few of these rather than the whole apparatus of power blocks is likely to dominate decisions in Zambian SMEs. The irony of the matter is that, in the way the legislation stands, such dominant individuals or organs are not likely to come from the supposed centre gravity of the self-management system: the employees of the company. Should this be so, it would be a development running against all the proclaimed postulates of systems of self-management .

#### 4.3 The Position of employees in the SME Legislation

In order to clarify the basis of our perspectives on the Zambian legislation, it is necessary to furnish further information on the actual position of employees under the 1988 legislation. The starting point of our discussion is that the Zambian legislation underestimated the importance of relationships between organs of decision-making. By not respecting the principle of hierarchy and the consequent failure to grant general rights to all employees, the law actually diminished any prospects that power in these SMEs would derive from its supposed power base- the company employees. The case is not that the legislators were ignorant of the appropriate models on which to structure decision making in the Zambian SMEs. The legislative history of the 1988 Act suggests that it was an intentional decision taken by the authorities not to allow



employees to be the basis of all power in the SMEs.

The earlier draft of the Self-Management Act incorporated the principle of universal suffrage in the Employees' Conference(45). This would have permitted every employee some direct nominal say in decisions of the SMEs. In the scheme enacted, decision making by employees, to the extent this takes place, is the prerogative of those employees elected to the Employees' Conference under section 5. In a company which may employ hundreds, the majority are restricted to electing the fifty members of the Employees' Conference. But from the point of view of workers' participation, any influence this right might have had on the decision making process is countered by the absence of procedures in the law by which individual employees could influence activities of the elected Employees' Conference and other decision-making bodies of the SME. Both the parent legislation and the subsidiary rules do not address the subject of renewal of Conference members. This omission leaves the impression that there are no employee intermediary rights at all in the life of the self-management company. Without safeguarding such intermediary rights, the law ensures that self-management for the majority of employees is an indirect process through elected representatives in the Employees' Conference.

There would be little concern for the position of the majority employees if their representatives in the Employees' Conference, to whom they surrender self-management

decisions, were seen to be in charge of decisions in the SME system. This however, is not the case. The reality is that the operation of the Employees' Conference is circumscribed by decision bodies over which the Conference could not, in law and fact, exercise control. The Managing Director, Employees' Board of Directors, the Advisory Council and the President are decision-making bodies in the SME over which the Conference of Employees has little or no control at all.

Though the Employees' Conference has powers to elect the Managing Director under section 22, and to appoint the Employees' Board of Directors in section 9, it is sufficiently clear from the other provisions already presented that the powers of the Conference in these matters are not without significant qualifications. Firstly, members of the Employees' Board of Directors are not head-hunted through the free will of the Employees' Conference. It is a fundamental requirement of the law that such board members should be drawn from fixed constituencies indicated in section 10. In fact, only half of the members of the Employees' Board of Directors are supposed to come from the employee body itself. Moreover, the appointment of all board members is subject to approval by the President under section 9. The latter condition might look innocent, but it may actually operate to impose restrictions on the choices of board members nominated by the employees among themselves(46).

Secondly, though the Employees' Conference is supposed to



elect the Managing Director, there does not seem to be any real criterion upon which the Employees' Conference could reject a candidate presented to it by the Employees Board of Directors. [Note that the name 'Employees' Board' betrays the reality of its composition]. In those cases in which the President chooses the Managing Director, as is the case in current schemes, the Employees' Conference has no influence at all over the appointment and dismissal of the Managing Director.

Therefore, despite the pretensions of the self-management legislation, the Employees' Conference - the only genuine organ of the self-management system in which employees are represented- has no decisive influence over the appointments of the Employees' Board of Directors and the Managing Director in SMEs. With regard to the powers of the Advisory Council and the President in the SME, the pendulum swings away from employees to the extent that even the legislation does not pretend to give the Employees' Conference control over these two powerful organs. Fundamentally, and without fear of contradictions, the President can give directions to any other organ of the SME under section 34(3). Similarly, as against the Employees' Conference, the Employees' Board of Directors, the Management Committee and the Managing Director, it is the Advisory Council that can decide finally, under section 16(2), whether certain decisions are in the best interests of the SME.



We submit that these powers of the President and the Advisory Council in SMEs challenge the professionalism of the Employees' Board of Directors, the Management Committee and the Managing Director. Above all, powers such as those yielded by the President and the Advisory Council render superfluous the language of the law in section 7(1) that the overall function of the Employees' Conference "shall be to exercise the corporate powers of the self-management enterprise". It is inconceivable, and also illogical, that overall authority and power in a decision structure could be exercised by a body subject to directives from another.

Therefore, what we find to be true of the Zambian self-management legislation is that neither the employees as a whole nor their immediate representatives in the Conference are the masters of the decision-making process in self-management companies. This we suppose is a negative assessment of the position of employees in the Zambian self-management legislation which is justified by the letter of the law.

#### 4.4 The clash between parent and subsidiary legislation

The argument so far is that the countervailing power-block model adopted in the Zambian SME legislation under-represented the employees in the structures of decision-making. Another way of sustaining the same conclusion is to examine and highlight the anomalous relationship that exists between the Self-Management Enterprises Act and the regulations issued by the Minister, supposedly under its authority.

The Minister's regulations recognised that the parent Act was weighted towards constitutional organs made of persons who are not supposed to be the primary beneficiaries of power in a system of self-management. Consequently, we find that the Minister's regulations seek to correct some of the key assumptions of the parent legislation.

Under section 9 of the parent Act, for instance, the Employees Board of Directors is supposed to be appointed by the Employees Conference and approved by the President. The legal interpretation of this should be that until the President has approved the list of directors their appointment by the Employee Conference is ineffective, and by extension, such directors cannot lawfully act on behalf of the SME. As against this interpretation of section 9, the Minister's regulation 25 reads:

Within twenty-one days after the election the names and addresses, together with information respecting the terms and conditions of office of all persons elected as directors shall be forwarded to the President.

The length of the intervening period before submission to the President, and the omission of the phrase 'for approval' after the President in regulation 25 suggest that the Minister intended the President merely to be informed of the persons appointed as directors of a self-management enterprise. In fact, the short title of regulation 25 is Election report to the President.



We think that no reasonable interpretation of section 9 could justify the Ministers' result. The Employee Board, under section 10, is also made up of persons drawn from certain constituencies. From this, it is unlikely that it was the initial intention that the Employees' Conference alone should approve the personalities behind the political balancing characteristic of the board of the SME under that section. This, therefore, means that regulation 25 is a Ministerial mischief, a deliberate action that seeks to change the assumptions of the parent legislation by moving away from the powers of the President as contained in the SME Act 1988.

There is another example where the Minister's regulations clash directly with the parent legislation. In sections 13-15, the 1988 Act states unambiguously that the appointment, remuneration and removal from office of the Advisory Council is the function of the office of the President. On the other hand, regulations 36 and 37, respectively, give such powers to appoint and remunerate the Advisory Council to the Employees' Board of Directors. They are silent, however, on who will remove the Advisory Council from office. They also fail to clarify the exact role of the President in selecting advisors to SMEs.

Nonetheless, the general tenor of the Minister's regulations cannot be mistaken. These seek to derogate from the assumptions and intentions of the SME Act in so far as that sought to grant more powers to the President and the



Advisory Council in decisions of the SME. But what also needs to be grasped at this point is that it is a settled principle of law that blatant flouting of an Act of Parliament by a subsidiary legislation is unlawful. This being the case, it is important, within a contextual discussion of law, to ask why the Minister sought to change the views of Parliament in the way he was doing. In other words, who are supposed to be the beneficiaries of the power to manage and control a self-management enterprise under the Minister's regulations?

To answer this question we shall need to look at the totality of the Minister's regulations. But of immediate interest are Regulations 35 and 44. These regulations state respectively the powers of the Employees' Board of Directors and the Managing Director in a self-management company. One significant feature of these two regulations is the tightness with which the Minister seeks to allocate authority in the SME to the Board of Directors and the Chief Executive. In addition, regulations 45 (c)(d) sever any loose relations that might have been implied to exist between the Employees' Conference and the Managing Director. These provide that the Managing Director will be answerable to the enterprise and to the Employees' Conference only through the Employees' Board of Directors.

In effect, the regulations restore to the SME organisational principles familiar to other commercial enterprises operating under the Companies regime. The language of

empowering the Chief Executive makes this point abundantly clear:

44. (1) The Chief Executive shall have all the executive powers and shall be responsible for the attainment of the enterprise's plans and objectives.

(2) In exercising his powers and discharging his duties under sub-regulation (1) the Chief Executive shall:-

(a) constitute a management committee which shall consist of all heads of departments and any other persons he shall deem necessary;

(b) establish as many sub-committees of management as he deems necessary for the efficient discharge of his duties;

(c) preside at the management committee meetings and nominate, where it is not possible for him to preside, persons to preside at meetings of the sub-committees of management;

(d) co-ordinate functions of various sub-committees of management;

(e) draw up job description for all the employees or assign such tasks to heads of departments;

(f) direct in any manner he deems suitable the heads of departments in the execution of enterprise's policies and attainment of the enterprise's objectives.

What is happening is that regulation 44 rids the SME of all those Sub-committees mandated under the principal Act. In

their place comes familiar language of departments with their professional heads. As it stands, indeed, regulation 44 might please shareholders of Ford Motor Company in Detroit as the kind of powers which a Chief executive of a commercial company ought to possess. The main difference is that all the shareholders at Ford will have rights in law to challenge the decisions of their Managing Director and the Board, either through the General Meeting or by way of the equitable right of derivative action.

In the Zambian scheme, complaints by employees against the real managers will require a compromise within the machinery of the Standing Committee of the Employees' Conference. This body, our analysis indicates, is most likely to be an accessory to complaints of employees rather than an impartial umpire of the constitutional struggles in the self-management system. The Minister did not help to give employees a leverage over the professional management. Instead, he seemed to be more concerned with whittling down the powers of the President and the Advisory Council than actually granting influence to a group that was the essence of adopting the self-management system. This may be hardly surprising given all that has been said in this study about the origins and development of the Zambian participation policies.

##### 5. The impact of SME legislation on participation policies

The self-management legislation was only enacted in 1988. The enterprises to operate under its regime began to do so



legally on 1st March 1989 when that law came into force(47). During our fieldwork in December 1989, the self-management project was barely nine months in progress. This was too short a period to attempt an assessment of the practicality of the scheme in operation.

Besides, the companies which were operating under the legislation were still subject to tight supervision from IPD and the National Steering Committee on Self-Management Projects(48). These conditions meant that either little had changed or one was more likely than not to get official views from the workers, even assuming, in fact, that we would have obtained the necessary clearance to conduct interviews with worker representatives at such a sensitive phase of the self-management project.

To avoid these problems, we only asked IPD to allow us to visit and speak to one of the Managing Directors. This request was kindly granted in respect of F.Z. Simenda of Zambia Pork Products SME Limited in Lusaka. It is obvious, however, that the Chief Executive of Zambia Pork Products, though well placed to assess the whole context of the government programme, could not speak for the ordinary workers involved in the scheme. In short, what we gained at Pork SME was a panoramic managerial perspective, not quite relevant to the context.

Therefore, the only real measure of the impact of the self-management legislation on the Zambian participation

policies we could assess was the law put in place. The foregoing analyses of that law leaves us with very pessimistic conclusions about the prospect of workers to influence decisions in the SME in Zambia. Yet, even those who have had the opportunity to monitor the scheme in practice do not seem to reach different conclusions. Our conclusions are in fact shared by the results of the National Review Conference on Self-Management Pilot Projects held in Lusaka from 14th-16th May, 1990. At the end of its deliberations, the Review Conference resolved and recommended that:

1. A thorough review of the Act be undertaken, on a tripartite basis, with active participation of all parties concerned.
2. The review recommended above should include, inter alia;
  - a) the provision for access of Self-management enterprises to the Industrial Relations Court, including its grievance procedures.
  - b) the definition of the Minister responsible.
  - c) redefinition of the roles of the different organs of the Self-management enterprise.

There is still little materials on which to judge the impact of self-management legislation on the Zambian workers' participation programme. But on the basis of what is known it is unlikely that the 1988 Act will fair better than the works council law. There are no works councils in SMEs. Trade unions

are ideally not supposed to be present in SMEs(49), while individual workers have no access to the courts of law over managerial and employment decisions.

This gloomy picture may improve once the review of the law called for by the Review Conference is undertaken. But that may well be the time to look at other dimensions which have to be considered if workers' self-management is to be a genuine advance of government participation policies in Zambia. The question of how many Zambian companies will operate under the self-management legislation is particularly important because a pilot scheme attains significance only if it is the intention that more samples will be drawn into the arrangements in future. Currently there are two state companies participating: Zambia Pork Products and Choma Milling Company. Zambia Pork and Choma Milling are marginal entities even within the food sector of the Zambian parastatals. The real national companies of Cold Storage Board of Zambia (cattle and meat distribution) and R.O.P (1975) Limited (formerly Lever Brothers - for cooking oil, and other oil based products) which Professor Grozdanic studied and recommended for the pilot self-management projects, were turned down in the final decisions by the authorities because, it was found that both companies were experiencing serious financial and operational problems which rendered them unsuitable as pilot enterprises in self-management(50).

We know from our research, however, that to select Choma



Milling and Zambia Pork, the authorities turned down Mwaiseni Stores Limited, a well established retail outlet nationalised in 1968, and Indeco Estates Development Company, a state property company in Lusaka. Between Zambia Pork and Choma Milling, the rural based Choma company had been easy to secure from ZIMCO and INDECO. For Zambia Pork Limited, it was released to IPD only "after protracted consultations with INDECO, the holding company"(51).

These are not good signs that anyone else will be willing to enter the self-management schemes. Yet, even if two or three more other companies joined in and became as successful as for example, the Scott Bader Commonwealth in Britain(52), they would still be atypical for purposes of justifying workers' self-management as an advance of a national industrial relations policy. More companies would need to be drawn in the scheme in order to make self-management a significant development in Zambia.

The chances of this happening are not good. The finance for organising the experiments at Choma Milling and Zambia Pork Products were provided by two United Nations Agencies, United Nations Development Programme (UNDP) and the ILO. If these United Nations agencies decide to withdraw from the experiments under way, the future of self-management in Zambia will be in question. The National Review Conference of 1990, in fact, called on the government to establish, as a matter of urgency, a Consolidated Fund to assist the self-management

enterprises financially(53). But money will not be the only issue to confront SMEs in future. The Review Conference also released the following recommendation:

Ownership of self-management enterprises be in a form as will be decided by the Boards of Directors of the SMEs, and in particular;

a) A programme for employee equity participation in the SMEs be urgently worked out;

b) Profit sharing measures amongst employees be introduced in the pilot SMEs to cultivate interest and sense of belonging and ownership among workers<sup>54</sup>.

These points show that the goals of the workers' self-management in Zambia still needs to be clarified, the organisational structures defined and the resources provided. Any prospects in these developments, however, has to be set against a changing political and economic environment in the 1990s. We elaborate on this last point in the final Chapter.

### Summary and Conclusion

This Chapter has presented materials on how the Zambian government attempted to expand workers' participation laws beyond the works council legislation of 1971. The starting point of our presentation was IPD, the government agency specifically created to provide the organisational focus for workers' participation policies. Its terms of reference and organisational structure were presented. The ambiguities in the terms of reference and of the department itself within



government structures were highlighted in section 1.

In section 2, we examined what the department was able to do in order to carry out its mandate within the Zambian body politic. Beginning with the big slate of ideas coming from the First National Convention on Industrial Democracy in Kabwe in 1976 to the letter of the Law Development Commission to the Director of IPD in 1987 on company law, we have shown how every idea to promote and carry forward government policies faded away in the domestic policy making machinery.

The Zambian government's appeal to the ILO in 1983 brought hope in the area of workers' self-management. Within the limited framework of pilot schemes endorsed by Professor Grozdanic, the Zambian government was presented with a unique opportunity to do what it had always said it wanted to do - to bestow on every Zambian worker the right to participate in decisions of companies in which he worked and on which his livelihood depended. The result of the Zambian attempts in this area is borne out by an already lengthy analysis of the 1988 SME legislation. In brief, as one institution/ structure of decision-making was piled on another, the bulk of workers in SMEs got even more legally emasculated in their ability to challenge managerial decisions in employment. The nominal rights of employees under the 1971 works council law to challenge managerial decisions in the Industrial Relations Court effectively closed.



## FOOTNOTES TO CHAPTER SEVEN

- 1 Act no.33 of 1988.
- 2 Republic of Zambia, Summary of Proceedings of the National Review Conference on Self-management Pilot Projects, Lusaka, May 1990, p.1
- 3 The Zambian concept in economic policy has been to build Humanism through Socialism. The basic statement of policy is in Kaunda, 'Humanism in Zambia and a Guide to its Implementation Part 2' op. cit.
- 4 Basil Kabwe, Report and Recommendations of the National Symposium on Industrial Participatory Democracy in Zambia, IPD, Lusaka, 1976, p.76
- 5 See Ch.6
- 6 Republic of Zambia, Profile-Ministry of Labour, Social Development and Culture, 1989, pp. 1-7
- 7 The common explanation is the poor conditions of service compared with persons of similar qualifications and experience in the private sector.
- 8 There are no corresponding provinces and districts in establishments. These designate ranks on the Party pay roll.
- 9 Article 48 of the 1973 Republican Constitution.
- 10 This was the case in the early 1980s with MCC Sooko, Ministers, Unia Mwilu and Mukando and Director Kwibisa.
- 11 See Alexander Kwibisa, Report on the Three Day Copperbelt Province Workshop on the role of Employers and Managers in

the Implementation of Workers' Participation in Decision-Making in Zambia, IPD, Lusaka, 1982, pp.11-23

- 12 Draft Industrial Democracy Act, 1981.
- 13 There was also considerable embarrassment to the Government in 1985 when the IPD's outspoken director, Alexander Kwibisa, faced criminal charges for allegedly obtaining money by false pretences from a private foreign company. This contributed to the revision of the supervision arrangement at IPD.
- 14 There was however no physical movement to Lechwe House. IPD remained on the 8-9 Floors of Society House.
- 15 See source in footnote 6 above.
- 16 Basil Kabwe, op.cit. pp75-76
- 17 'Report and Recommendations', op.cit.
- 18 The department measures its work in terms of the number of meetings, tours, workshops and seminars conducted in any given year. See Ministry Profile, op.cit., p.5. This emphasis on meetings might have neglected the equally important task of evaluating the quality of information so generated.
- 19 Mukumbuta, Muliyunda, op.cit, pp. 5-6.
- 20 See for instance the reports in Legum, Colin (Ed), op.cit., pp.B402-424
- 21 Instead, there was in 1983-84, a report (never made public) by IPD entitled 'WHO IS WHO IN ZAMBIAN INDUSTRY'. It alleged that the participation programme was made difficult because of personal stakes of prominent persons in the

- Party and government. Personal communication with Dr. Chambo of IPD, 1986.
- 22 There was also little help from the Ministry of Commerce and Industry. Their legal counsel once said "It is true that the Zambian Companies Act needs change to meet the present situation in Zambia. However, I am at variance with those who are of the opinion that the Act does not in the present form allow workers to participate in industry... There is no section in the Act which denies or prohibits workers", Moonze Chizyuka, Report on the Three Day Copperbelt Province Workshop, op. cit. p.32
- 23 In this decision the Commission was more in sympathy with the Ministry of Commerce and Industry, who in 1986, enacted a new Investment Act to attract foreign and private capital.
- 24 Times of Zambia, Zambia Daily Mail, 14 January 1983.
- 25 For details on this scheme see Report on the Seminar on Workers' Participation at Board Level, IPD, Lusaka, 1986.
- 26 Times of Zambia, February 8 1983, for Director Kwibisa's explanation why two missions were necessary.
- 27 Weiss, 'Technical Memorandum', p.1, para 1.
- 28 ibid. p16, para 81.
- 29 But see below opposition of the managerial bureaucracy in the choices of companies to be involved in the experiment.
- 30 See Chapter 3.
- 31 'Report on the ILO Mission', p. 12
- 32 Ibid.



- 33 The theory of self-management was first practised on a national scale in the Federal Republic of Yugoslavia. Milenkovitch, Deborah, Plan and Market in Yugoslav Economic Thought, Yale University Press, New Haven, 1971, for a useful introduction to the Yugoslav experiment.
- 34 See Chapter 5.
- 35 The decision in Mwanza v. National Transport Corporation-  
(1979) confirmed this legal position, despite occasional political interference in the legal model.
- 36 The extent to which Self-management companies are exempt from Company and Industrial Relations legislation cannot be ascertained from reading the 1988 law. The President has to make a determination in a Statutory Instrument which aspects of these laws should affect SMEs, see s.33(1)(2)
- 37 The current regulations were issued by the Minister, probably under derogated powers in section 34(2), which allows the President to delegate all his powers to a Minister (except the power to declare an enterprise SME).
- 38 The definition of 'employee' excludes only temporary and seasonal workers, s.2.
- 39 Which is 3 years under regulation 42(3).
- 40 But see regulation 42 giving the same powers to the Employee Board.
- 41 Refer to the discussion of these aspects in Chapter 4.
- 42 See ss108-113 of the Zambian Companies Act, Cap. 686.
- 43 Farrar, J.H., Company Law, Butterworths, London, 1985, Ch.10, for discussion of principles and review of case law.

- 44 The Party Committees and the trade unions represented at the enterprise are not obliged by the law to nominate a worker member to the Board. They can appoint senior Party or Trade union officials outside the enterprise.
- 45 See s4(1) and 6 of the 1987 draft of the legislation.
- 46 For instance, persons known to the Party Committee to be critical of government would not stand a chance even though they might be effective worker representatives.
- 47 Statutory Instruments nos.24 and 25 of 1989.
- 48 This acts as a monitoring group, and is widely represented from industry, trade unions and government at the national level. There are also sub-steering committees for each enterprise.
- 49 In 1989 the unions were still operative, mainly because union leaders have insisted on retaining a role. Yorum Chibwe pointed out to us that recognition agreements in the companies had not been revoked by the government.
- 50 IPD, Major events in the introduction of pilot projects in Self-management, 'Lusaka, 1987, p.5
- 51 Ibid.
- 52 The history and progress of Scott Bader from 1951 is noted in Axworthy, Christopher, and Perry, David, 'The Law of Worker Ownership', (1989) Osgoode Hall Law Journal, Vol.27, no. 4, pp. 647-686, at 659.
- 53 'Summary of Proceedings of the National Review Conference', op.cit., p. 6
- 54 Ibid.

## CHAPTER EIGHT

### THE STATE, LAW AND WORKER'S PARTICIPATION POLICIES IN ZAMBIA: SUMMARY AND CONCLUSIONS

#### Introduction

This study was undertaken with the object of learning how the state in Zambia developed policies and laws regarding workers' participation in management decisions. But it has also sought to underline and evaluate the significance of these government measures in the context of that country's structures and institutions in the decades 1969-1989. In this final Chapter we review our findings and then consider their implications on whether the experience suggests that the involvement of the state, and the use of law in particular, has made a useful contribution to the development of workers' participation policies in the country. Before turning to these concluding themes, however, it is useful in the first place to indicate more clearly where we have ended in our attempts to follow the development of law and participation policies in Zambia. In particular, we need to set out the possible future developments on the workers' participation policy to which our main findings in this thesis relate.

#### 1. Workers' participation in Zambia: The continuing business

This thesis has examined the Zambian policy of workers' participation over a long span of time running from 1969 to 1989. At the end of the two decades under study, the process of development and change in the industrial relations policy



of workers' participation had not abated. In fact, by the end of 1989, the stage seemed set for the 1990s to repeat the decades 1969-89 in terms of the discussion of law and workers' participation policies in the country. Three factors point towards continuing future developments.

Firstly, the Companies legislation which we found on stencil at the Law Development Commission in January 1990 avoids altogether the subject of workers' participation in management decisions. This however was the issue which had given impetus to the formation of The National Working Party on the Companies Act in 1981. While it would be tempting to believe that the letter of the Law Development Commission in July 1987 brought the Company law aspects of the workers' participation policy to a neat and satisfying conclusion, it would be premature at the time of writing to pass that final judgment. Trade unions continue to have anomalous representation on boards of directors in the public sector. The reason is that the country is still awaiting the outcome of the Companies Bill. As late as August 1986, a national seminar on Workers' Participation At Board Level observed that "The Committee was aware of the fact that legislators were already working on appropriate changes to the company law. It is felt that they should be urged to speed up the completion of those changes..."(1). It was our impression in January 1990 that the communication in July 1987 between the Directors of the Law Development Commission and IPD on the future of workers'

participation policy in Company law had not been widely circulated among all the interested parties. Both the Deputy National Chairman of the National Union of Commercial and Industrial Workers, himself a worker director, and the Assistant Company Registrar in the Ministry of Commerce and Industry, responsible for administering the Companies Act, had no knowledge of what had transpired between the Law Development Commission and IPD over the Companies Project(2).

The government, on the other hand, was preoccupied with the self-management project in the last two years covered by our study. Since co-ordination of the various government agencies involved in the participation policy has not been evident in the past, the possibility exists that in the future the President or some other Party official may question the decision not to have accommodated participation policies in company law. But whether or not the new Companies Bill comes off stencil, the matter of workers' participation policy in company law may still be raised because of the obtaining situation of trade unionists sitting on boards of directors in the public sector. Trade unionists are understood to be weary of their institutional legitimacy on these boards without the security of changes in company legislation. Thus, without a major shift in government policy, there exists in the public sector all the hallmarks of future further initiatives on participation policy.

Secondly, the 1988 draft Industrial Relations Bill, which



had not been presented to Parliament in 1989, contains substantial amendments to Part 7 of the Industrial Relations Act, 1971. It proposes, among other things, to reduce the requisite number of 'eligible employees' necessary to form a works council from 100 to 50, with powers to the President to lower the threshold further. There will be a need for a written annual report to all employees of a company on the activities of works councils. All decisions, recommendations and resolutions of works councils will have to be forwarded, for the first time, to the Commissioner of Labour. Companies will come under a new duty to provide 'facilities' for the activities of works councils. The term of office of works councillors is to increase from two to three years. Most important of all, the Bill proposes to widen the scope of areas over which works councils will have rights to be consulted and to 'participate fully'. Specifically, those areas covered by section 72 of the Industrial Relations Act, 1971 under which works councils are entitled only to receive information will in future require consultation with, and full participation of, works councils before the board, the proprietor or management can take decisions(3).

It can be seen that the scope of discussion opened by this Industrial Relations Bill is substantial, and there is every reason to believe that whenever the Government decides to bring forward these changes to the Industrial Relations Act, further interest will be aroused in the development of



law and workers' participation policies in Zambia(4).

Thirdly, looking purely from a lawyer's perspective, the Self-Management legislation of 1988 is messy. The duplication of decision structures in the parent Act and the conflict between that and the Minister's regulations seem to require further attention if the new self-management system is to be provided with a respectable legal framework promoting workers' participation in management decisions. We have seen, however, that the conclusions of the National Review Conference on Self-Management Pilot Projects add a different dimension. Those conclusions indicate that the changes to the law of self-management need to be greater than a simple resolution of technical ramifications in the 1988 legislation. It is suggested there that the nature of equity holding in self-management companies be changed so that individual employees may have personal interests in the capital structure of self-management firms. Suggestions such as these, if followed, will engender a radically different system of self-management, and with that, perhaps a different kind of workers' participation legislation. The latter will be necessary in order to achieve new definitions of social relations in self-management enterprises. Once again, the momentum for change appears inherent in the structures and institutions examined by this thesis.

There is no way of predicting how all these possible developments are going to blend together in future. As has happened several times in the past, the Constitutional form of the

Zambian state is set to undergo changes in the 1990s. On 29 November 1990, the Constitution of Zambia (Amendment) Act repealed Article 4 of the 1973 Republican Constitution which enshrined the One Party State form of Government in the country. Other political parties have since registered, and a government constituted within a plural framework of politics may be in place by 1992(5). These constitutional developments will in future change, at least legally, the political environment under which workers' participation policies have been nurtured for much of the last twenty years. The consequences of constitutional and political changes for economic policies in general, and industrial relations in particular, are uncertain.

Against this background, the picture for the future is too hazy to permit definitive judgements on what direction the Zambian participation policy will take in the 1990s. What can be stated, with some degree of certainty, is that whatever the future will be the events of the past two decades on Industrial Participatory Democracy are likely to form an important part of enquiry for Zambian studies of law and industrial relations. If workers' participation policies continue as some integral part of industrial relations policies in future governments, their success will depend in part on whether the lessons of the past two decades can show how workers' participation policies might be approached by the state. In order to be able to draw lessons from past



experience, it is necessary that the past itself is accurately grasped in its very different descriptive and analytical dimensions. It was one of the principal aims of this thesis to contribute to the building of the necessary base knowledge upon which future strategies might be designed. In the remaining pages we review what the study has done to enhance our understanding of Zambian developments and discuss what implications these have for the future.

## 2. The origins of workers' participation in Zambia

A key to the analysis of Zambian participation policies lies, to a greater degree, in explaining why workers' participation was introduced at all. Existing writings pay attention to this point but do not give satisfactory answers. They have either provided restricted accounts or have been concerned with workers' participation policy only as one factor causing or reflecting 'problems' in government economic policies. On either count, we argue, they fail to locate accurately the history of workers' participation policies in Zambia, and to differentiate the variations of strain to which these policies have been exposed since 1969. Four perspectives which previous writers have advanced to explain the origins of the Zambian policies were introduced and considered in Chapters 2 and 3: the Philosophy of Humanism; the political concept of Participatory Democracy; the idea of new role of labour in development; and the role of international influences.

We found that the Philosophy of Humanism on which official



explanations of the origins of participation policies are predicated is helpful, but only to the extent of exposing the existence of institutionalised views on workers' participation in Zambia. Our discussion in Chapter 3 demonstrated that the policy of workers' participation in management decisions precedes by far President Kaunda's Chapter 13 in Humanism and Its Implementation Part 2 on which Industrial Participatory Democracy is advertised today. There was nothing in the 1967 outline of the Philosophy of Humanism articulating the rights of workers to participate in management decisions. Thus, it is scarcely surprising to find that the attempts to explain the development of workers' participation policy in the shape of the progress of the Philosophy of Humanism in Zambia led to superficial accounts which hardly recognised the scale of tension and contradictions that have existed over the policy of workers' participation since it was introduced(6).

On the view that workers' participation has been pursued in Zambia in order to carry out the political philosophy of Participatory Democracy we concluded that this was even less credible. The history of political democracy in Zambia in the last twenty years and the accompanying centralisation of decisions in its economic institutions thoroughly undermines that proposition. On the other hand, Shimaponda's statements on the international influences of the origins of workers' participation were found useful. His study pointed to practical sources of concepts arrived at in the Zambian industrial

relations system. But while accepting that the ideas about workers' participation were probably borrowed from European and Scandinavian practices in industrial relations, the value of Shimaponda's perspectives were somewhat reduced, from our point of view, by the fact that his study did not seek to explain why it was particularly necessary to adopt workers' participation policies in Zambia.

Therefore the main perspective we considered, and which has addressed directly the issue of the origins of workers' participation in Zambia, was that provided by Evance Kalula and those who share his premises on the history of the relations between the State and trade unions in Zambia. We accepted in this study that the incorporation thesis, in its different variations, has had considerable influence in interpreting labour relations developments in Zambia. Its origins in the country is to be found in Robert Bates' examination of Ministerial statements on labour matters in the 1960s. It was Bates who confirmed for Zambia what was to be established throughout the Third World industrial relations studies as the 'new role of labour in development'(7). Thus, in more general terms, the influence of the incorporation thesis on interpreting the Zambian motivation for industrial relations legislation cannot be underestimated. There is much value in supposing that the Zambian state promoted workers' participation policies in 1969 in order to control trade unions in the drive for economic development. The question we



had to address in this thesis was whether that general proposition was applicable to the development of the industrial relations policy of workers' participation in management decisions?

After a careful consideration, we found that application of the incorporation thesis to the development of the workers' participation policy in Zambia is problematic. This is the more fundamental because the place of trade unions in the development of Zambian participation policies is more obscure than exponents of the incorporation thesis pretend. But it is our case too that the incorporation thesis, whatever its merits, has been overweighted in its application to the Zambian labour legislation developments. This is particularly so in the way Kalula has used the incorporation thesis to explain the whole range of post-independence labour legislation in Zambia. Kalula's interpretation of the Zambian state's use of law in industrial relations has painted a rather homogeneous and visionary drive by the state to incorporate labour for economic development. What we point out is that such an over emphasis on trade union or worker control as the exclusive terrain of state-labour legislation in Zambia could very much oversimplify matters. Even Bates, against whose work Kalula's is a sequel(8), accepted that the Zambian labour policies in the 1960s were not solely driven by considerations of economic development goals. Bates indeed identified two strands in the Zambian government's labour policy in the 1960s: the first, a



development labour policy; the second, a policy of social justice. The former was the one concerned with winning cooperation of workers and the trade unions in the country's attempts to maintain and expand industrial production. The latter focussed on the government's commitment to a programme of improving the rights of workers in employment. Bates confined his study of Zambian labour policies to the first strand and said very little about the policy of social justice(9). From this distinction Bates made, it is reasonable to assume that he would not have regarded the incorporation thesis as an explanation for all aspects of industrial relations legislation in Zambia. It is possible, however, that Kalula might have found reasons to link the development of participation policies to the wider political goals of incorporating the trade unions for economic development.

What we have suggested in this thesis is that he does not provide sufficient evidence for the interconnection. There was, of course, many industrial relations problems in the 1960s, but there is evidence too that the Zambian state found several other avenues of addressing those specific problems over which many employees protested in the aftermath of the country's political independence(10). Kalula does not suggest that workers and the trade unions in Zambia requested participation policies in industry as a possible way through which they could channel their discontent with employers and supervisors. But neither does his research on the history of

workers' participation and the Zambian state attribute the confusion and uncertainties which mark the policy of workers' participation in the country to labour's resistance or otherwise to state incorporation policies. To the contrary, he accepts, even if implicitly, that throughout the history of workers' participation in Zambia workers and the trade unions have been passive and parasitic forces waiting for the state to deliver the promise of workers' participation in management decisions(11). Now, what explanatory value can the incorporation thesis have if it cannot explain the passivity of labour in the evolution of the Zambian participation policy?

There are other unsatisfactory elements in the incorporation argument in so far as it applies to workers' participation legislation. It is explained that from the beginning employers and managers resented the Zambian state policy of workers' participation in management decisions. At the same time, the trade unions and the workers welcomed the policy-(12). Why? Why should employers resent policies intended to immobilise labour, and the unions welcome policies restrictive of their independence? Secondly, why did it take so long to implement workers' participation laws after their enactment in 1971? Thirdly, did a One Party State really need to go to the ILO to bring measures to discipline labour? Fourth, and finally, do attempts to change company law in the 1980s perfect incorporation? These are all issues in the development of participation policies in Zambia to which the incorporation



thesis does not do justice.

As against such explanations for the origins of workers' participation policies, this thesis has supported a different and historically derived account why the industrial relations policy of workers' participation was adopted in Zambia. Our premise is that there is no need to attribute different motives to the Zambian state or to accept ipso facto rationales in order to understand and appreciate the reason why the industrial relations policy of workers' participation was adopted in the country. The view we have urged is that the industrial relations policy of workers' participation has its foundation in the broader (and much more successful) social and economic policies associated with the period 1968-70. The aim of these policies was to ensure Zambian participation in the ownership and the control of economic institutions. The means of achieving these specific aims within a framework respecting the rule of law, the constraints of an internationally-driven copper economy, the internal limitations of managerial skills and financial resources, the external economic and political pressures imposed by Rhodesian Unilateral Declaration of Independence, all limited the range of options open to the Zambian state to those which could receive justification in the specific political context of the 1960s. Partial nationalisation, state creation of industrial and commercial companies, the reservation of exclusive zones for Zambian entrepreneurship, active state encouragement of



Zambianisation of managerial personnel in the private and public sectors, and in this case, the drive toward workers' participation in management decisions, were all aspects of the burning question of the time,

how we should face squarely the difficulties that we experience in Zambia in so far as full control of our economy is concerned. We do not want to lament about the past as it is only too well known that we were neglected by successive British Governments,... Our task is to identify those difficulties that make it hard for us to control our economy and then to plan to do something about it(13).

It is central to the arguments developed in Chapters 2 and 3 that the industrial relations policy of workers' participation was first introduced in Zambia as an armoury in the country's struggle against the social and economic domination of the 1960s. It is this which explains not only the leading role of the state in the adoption of participation policies in Zambia but also why the country came out in favour of radical schemes of workers' participation far ahead of developments in many major economies. Northern Rhodesia's exclusionary colonial policies provided a basis for strengthening the moral and political case against foreign economic domination, for which the Philosophy of Humanism was a relevant derivative. Bates, that foremost exponent of Zambian labour policies in the 1960s, was in no doubt that the impetus for the policy of social justice he identified was in the "uneven distribution

of wealth along racial lines in Zambia"(14). We have argued in this thesis that measures to implement economic participation, in various forms, was an area where the government found political support from the different ensemble of factions present in the 1960s. To this extent, our Zambian study of the origins of workers' participation confirms the hypothesis first suggested by Paul Blumberg that repudiation of economic elites leads to adoption of workers' management in the Third World. It is further confirmation of our arguments to find that those who observed the evolution of Zambian economic policies in the 1960s understood the expression 'self-management' in terms of the Zambianisation of the ownership and managerial functions than the expression of new economic relations in industry that the term acquired after 1974(15).

### 3. The Development of Law and Workers' Participation Policy

From the premise that the industrial relations policy of workers' participation was adopted mainly as a strategy to countervail foreign domination in economic institutions follow the distinctive and peculiar features of the Zambian workers' participation policy developments documented in Chapters 4-7. Compared with workers' participation developments elsewhere, the Zambian policy arose anomalously. Despite its presentation as an industrial relations policy, it was, in fact, not driven by the interests of industrial relations as such. As we have stressed, when the Zambian government introduced its policy in 1969 more consideration had been given to the broader social



and political goals of assuring Zambian participation in economic institutions than the promotion of workplace relations(16). The scale and speed with which greater workers' participation was to be introduced in 1969 support our interpretation of the interconnection which this policy had with the economic policies of 1968-70. Not surprisingly too, a policy which put a premium on historical and external threats of domination was by definition likely to pay insufficient consideration to its internal conditions and requirements for development. What this study has found is that there had been no prior systematic questioning of the basis on which workers' participation could be promoted in Zambia as a national industrial relations policy. The economic prosperity and full employment conditions upon which participation policies found favour in Western Europe and Scandinavia in the 1960s and early 70s were conspicuous by their absence in Zambia. This meant that if workers' participation was to be started and continued in the country as a national industrial relations policy, the supportive conditions were needed to be invented by the structures and institutions of post-colonial Zambia.

Chapter 4 investigated the extent to which the evolving structures and institutions of post-colonial Zambia could support industrial relations policies of workers' participation. We looked in particular at political processes; economic structures; industrial relations developments; and the legal context of company decisions. The results showed that there



existed a real contrast between the notional requirements of industrial relations policies of workers' participation and the foundations upon which the Zambian policy was erected. In particular, the One Party State political system and its consequent centralisation of economic decisions was the very antithesis of what was required to engender a participatory philosophy in the economy. This at least was the view gained from reading European developments, especially the materials by the German Trade Union Federation. But we found too that neither the new Zambian entrepreneurs promoted by government policies nor their foreign counterparts could have been in the position in 1970 to support wholesale participation policies in the economy. On the other hand, many other changes were introduced in the industrial relations system alongside participation policies to deny the latter any special treatment from the point of view of employers and the trade unions. In addition, the Zambian company law legislation of 1908 was still very liberal in its conception of the economy, hence, it was not receptive to notions of workers' participation in management decisions. In short, the policy of workers' participation in Zambia was from the start without a sound foundation. The structures and institutions of post-independence Zambia which alone might have helped to pull the policy from the confusion of its historical setting seemed, in fact, to be the greatest sources of uncertainty.

We have argued that much of what has happened to law and

participation policy in Zambia in the last two decades is best understood in terms of the ambiguities in the foundations upon which law and policy were erected. Workers' participation had not been asked for by any of the primary parties to industrial relations. Yet, the government had not explained sufficiently how workers' participation would fit the other different arrangements in the economy and politics to which the State appeared equally committed. The scepticism which employers and the trade unions have shown towards this government policy is thus explained by the clashes in the overall framework of government policies.

Chapter 5 shows that, in fact, by 1971 the point seemed to be taken that Zambia could not tolerate a radical scheme of workers' participation, as was perhaps thought possible in the different economic circumstances of 1968-70. The result of this belated appreciation of contextual factors in the development of participation laws was the very diluted legislation discussed there. The 1971 law bore no resemblance to earlier government pretensions to enact a root and branch scheme of participation legislation. The law was weak, inconsistent and in some cases added nothing new to the existing arrangements with the trade unions. We demonstrated too that even Ministers were explicitly withdrawing from earlier public statements about the objectives of workers' participation in the country.

It was this theme which we carried in Chapter 6. We argued



there that the delay in implementing the law of 1971 was not due to the necessity for transitional arrangements as explained by official statements. The delay of five years was related peculiarly to domestic opposition to wholesale workers' participation in the management of the economy. Though doubts about the wisdom of state participation policies had existed before the legislation, it was really after 1971 that workers' participation policies came under scrutiny. This was because by this time the social and political basis upon which workers' participation had been accepted in 1969 had ceased to be relevant. Part of the reason here lay in the success of the other measures implemented by the government in getting the Zambians into the active parts of the economy. The other was the style of political and economic management in the One Party State which reduced the scope of what workers' could achieve in the decision structures of an expanding state economy. Thus, the economic problems which the country started to experience more severely after 1971 merely reinforced the scepticism that was already aroused.

The above notwithstanding, workers' participation policies continued into the 1970s and beyond. Three factors were offered to explain why this had happened. First, President Kaunda was personally interested in schemes of workers' participation. This was most reflected by his close supervision of this government policy. Secondly, there was a coincidence of favourable international opinion in the 1970s,



especially between 1974 and 1978, which gave moral and political encouragement to the Zambian government. The main stay of participation policies, however, were the changes in the domestic economic policies. In the 1970s Zambian economic policies in the One Party State shifted to an emphasis upon 'social ownership' of the means of production. This shift, we stressed, had a significantly different rationale from the policies of 1968-70 directed at Zambianisation of the economy. The impact of the latter thinking on industrial relations policies was a renewed interest in workers' participation, leading to developments such as the creation of IPD in 1975, and the implementation of the 1971 law a year later.

From the point of view of the development of the participation policies started in 1969, what we have indicated is that the new situation in the 1970s precluded a meaningful review of the basis on which the industrial relations policy of workers' participation was accepted in the first place. The overall result of this failure by government to take stock of workers' participation as an industrial relations policy in the 1970s was, as Chapters 6 and 7 have shown, to allow this policy to remain firmly in the hands of the state and to proceed on a course which seemed even further removed from the legal, social and economic situation obtaining in the country.

Neither implementation of the 1971 law in 1976 nor the creation of IPD a year earlier had the effect of adding significant support to government participation policies. The

law, once implemented, had little impact on management decisions and the attitudes of the trade unions. Apart from the fact that the law was weak, inconsistent and in many respects without substance, its implementation was as well overshadowed by threats of new and better legislation. The latter created a political environment which constantly undermined the confidence of employers, managers and trade unions in the works council scheme. There was in particular uncertainty since 1975 as to what the government was going to introduce in order to improve and strengthen the 1971 law. Under such circumstances, companies which reported benefits from implementing the works council scheme were the ones who would probably have benefited from any scheme of information and consultation regardless of its legal status. The absence of the works councils in the machinery of the Industrial Relations Court discussed at length in Chapter 6 confirms the generally held view that informality has been more of the rule than the exception in the operation of the Zambian works councils.

Yet if the law of 1971 was not helpful, we found too that the political make up of IPD and its insistence on legislation as the means to introduce greater workers' participation further alienated government policies from the supporting attitudes of the managers and trade unions. The attention of employers, managers and trade unions since about 1975 was increasingly drawn to the state of the economy to which



exponents of Industrial Participatory Democracy seemed to pay insufficient attention in their contempt for promoting capitalism. But without the supporting attitudes of a greater part of managers and trade unions, the government lacked the confidence to produce sound strategies towards its own version of workers' participation in management decisions. The demise of the many proposals since the Kabwe Symposium of 1976 and the very outcome of the 1988 Self-Management legislation illustrate the point most clearly.

#### 4. The State and Participation Policies: An Assessment

Given the origins of participation policies in Zambia, the form of law introduced and the organisation of institutions to promote government policies, what can be said to have been the contribution of the state in the development of industrial relations policies of workers' participation in Zambia? To answer this question, one important finding of this thesis needs reiteration. This is that at the heart of the Zambian state's experience with participation policies has been the consequent failure to look directly at workers' participation as an industrial relations policy. The pursuit of industrial democracy and greater workers' participation, as experience elsewhere shows, is a process which necessitates significant co-operation between the state, employers, trade unions and the workers. This is as it should be for industrial relations policies in general. But throughout the main phases of the Zambian participation policy, we have found that the



essentials of industrial relations policy developments had been subordinated to the broader economic and political goals of the Zambian state. Attempts at consultation with other labour market parties were certainly made at various stages, but the governing principle seems to have been the overriding right of the state to unilaterally adopt and enforce schemes of workers' participation so long that these were deemed necessary to the satisfaction of political objectives in the economy. This strategy alone kept the Zambian participation policy actively alive in the public arena for two decades. But at the same time it ensured that the policy of workers' participation had no clear focus, and was not widely understood and supported.

The advent of IPD in 1975 might have assisted to explain the concept of workers' participation, outline its industrial relations benefits and generally suggest possible approaches which would have increased the willingness and capacity of employers, trade unions and workers to support state participation policies. But we have seen that this department was not intended to be a professional body delivering education and training, advice and assistance, research and information to the labour market parties. Its set up entailed that Party priorities took precedence over the more general interests of industrial relations to establish the environment on the basis of which employers and workers could be persuaded to change from traditional practices.

This is the background against which the assessment of the contribution of the state to the development of workers' participation in Zambia has to be undertaken. Despite the time, human and financial resources that have been allocated to Industrial Participatory Democracy over the past years very little can be shown for this investment. Scepticism still abounds about the wisdom of participation policies in the country. This study has shown that in so far as Zambian developments are concerned there are good reasons to question the public expenditure on workers' participation policies. The state, more than any other factor, seems to have been responsible for the confusion, contradiction and uncertainties which have marked the development of workers' participation policies in Zambia.

##### 5. Implications of the study for the near future

Our assessment of the Zambian participation policy, and of the involvement of the state in its development, may seem somewhat negative. Some advantages have been gained from the state's relentless pursuit of Industrial Participatory Democracy. Over the years, workers' participation has become more understood in the political arena, thereby providing the necessary ideological underpinning for these policies. A generation of Zambian managers have been persuaded to recognise that companies need to be managed in a way which takes into account and accommodates the interests of the employees. There was evidence in this study that in some companies workers are



in fact guaranteed a measure of consultation and information. The credit for part of these practices cannot be denied the Zambian government wholly. Indeed, without some form of direct government encouragement and involvement, it is unlikely that workers' participation policies would have survived as an integral part of the Zambian industrial relations system. The use of law in particular seems to have had impact on attitudes to the subject of workers' participation in industry. We saw in Chapter 6 that for some people workers' participation in industry was justified simply because it was enshrined in the law and supported by the government. From this perspective we have found insufficient reasons in this study generally to disparage state involvement, and the use of law in particular, to promote workers' participation policies in Zambia.

What has been argued in the thesis is that the proactive strategies of the Zambian government in pursuing participation policies have not produced substantive changes in the behaviour of actors in the industrial relations system. A major factor seems to have been in the failure by the state to encourage the development of conditions supportive of workers' participation provided for in the legislation. There was notable failure on part of the state, for example, to proceed with workers' participation policies on the basis of broadly shared objectives with other labour market parties. This was the case both as to the focus of participation policies in industry and as to the means of achieving



participation goals. From this view point, there now seems to be a case for putting the onus on and equipping employers and employees to be the principal agents of change in the Zambian industrial relations system. Future initiatives might also consider whether, and to what extent, the legislative strategy is appropriate on workers' participation policies. Too much emphasis has been placed by the state in the previous years upon enactment of laws. But whatever the merits of law in the reform and regulation of industrial relations, legislation alone, even if adequately designed and implemented, has a limited impact on processes of industrial relations. The long experience of Western Europe and Scandinavia suggests that there is, in addition to legislation, the need to create the political, economic and industrial relations conditions needed to induce confidence in employers, trade unions and workers to change behaviour in dealings with each other. Strategies which build upon current industrial relations activities, which promote skills and competence and develop consensus on what is intended and what is sought to be achieved from participation policies are as important as favourable legislation. These are the points neglected for a long time and to which the state will need to pay attention if workers' participation is to remain a national industrial relations policy in Zambia.

## FOOTNOTES TO CHAPTER EIGHT

- 1 Report on the Seminar on Workers' Participation at Board Level, IPD, Lusaka, 1986, p.52. Note also the material on p.56 where the report says "There has been an outcry from the worker directors that they are not adequately represented on the board. It was recommended that representation be increased and this should be backed by law".
- 2 Confirmed in separate interviews, December 1989.
- 3 Draft Industrial Relations Act, 1988.
- 4 Some of this is beginning to happen with the Industrial Relations Act, 1990 which enacts some of the provisions of the 1988 Draft Act. Times of Zambia, Monday April 15, 1991.
- 5 Though no date has yet been fixed for the elections, this is understood to have been scheduled for October 1991. The Independent, Monday August 5 1991.
- 6 See for example the paucity of detail in the government document, Major events in the introduction of pilot projects in self-management in Choma Milling Company and Zambia Pork Products Limited, IPD, Lusaka, June, 1987. The picture painted is that of revolutionary progress from the Livingstone Conference of 1967; 1969 Presidential Speech; 1971 law; Department of Industrial Democracy in 1975; Board representation in 1983; and Self-management in 1988. We have argued that matters have been far less splendid than many government officials have been willing to admit.
- 7 See here the collection in Damachi, U.G., and Kassalow,

E.M., The Role of Trade Unions in Developing Countries, International Institute for Labour Studies, Geneva, 1978; Milleu, Bruce, The Political Role of Labour in Developing Countries; The Brookings Institute, Washington DC., 1963

8 Kalula's study is dated 1971-1986 primarily because he considered the period 1964-70 to have been adequately analysed by Robert Bates. See Kalula, op.cit. Chapter 2.

9 Bates, op.cit. Chapter 3, p.27 and pp. 38-44

10 Some of the initiatives of the government noted in Chapter 3 include Commissions of Inquiry into sectorial salary structures; revision of colonial labour legislation; and the Commissioning of Professor Turner through the ILO.

11 Kalula, op.cit., Chapter 8, p.214, 231.

12 *ibid.*

13 President Kaunda, 'Zambia towards economic independence', in Fortman, Bastiaan, After Mulungushi, op. cit. p. 37

14 Bates, op.cit. p.38

15 Martin, Anthony, op.cit., Ch. 12, especially at pp.247-57.

16 The latter was what was given emphasis in section 69 of the 1971 law. But, as we have argued, that was a result of the difficulties of introducing the original scheme.



## APPENDIX A

[Extracts from speech of H.E. The President Dr. K.D Kaunda at Second National Convention, Kitwe- December, 1969]

May I now turn to this equally important subject of industrial relations. Time has come for us to establish relations between the worker and the employer that are in keeping with the the Philosophy of Humanism. In other words, our legislation must be such that it creates an atmosphere which will be conducive to the creation of a man-centred society...

It is with this view in mind that I wish to announce certain reforms which should lead to better industrial relations and, ultimately, to a more equitable distribution of our national income. Before getting down to the details of the proposed reforms, let me briefly outline what I am aiming at. I want all of us, employers and employees, workers and peasants, producers and consumers, government and governed, to co-operate in the struggle against inequality, exploitation and mutual aggression...

Please do not misunderstand me. This is not intended as an invitation to ignore all differences and pretend that the interests of all groups are in perfect harmony. Such a state of affairs would be Utopian. It cannot be attained, and indeed there is no reason why it should be attained. The interests of

employees are necessarily different from those of employers; the interests of industrial workers are different from those of peasant farmers; those of producers are different from those of consumers.

But does the conflict of interest between these different groups exhaust the interdependence between them? Is the employer not dependent on the employee, and industrial worker on the peasant farmer, the producer on the consumer and vice versa? It seems to me that the opportunities for co-operation are more numerous than the occasion for conflict, but that for selfish reasons we prefer to fight each other rather work together. We are more adept at excluding people from our society than including them.

Is it right, for example, that employees should be excluded from participating in the functions of ownership and management just because they do not happen to belong to these privileged groups? I believe not. It is therefore the intention of my Party and Government to change the whole system of industrial relations, so that our workers can effectively participate in the decisions of management....

The principal change I would like to announce concerns representation at the Board of Directors level. Proposals will be outlined during the course of this meeting for workers to be given representation on the Boards of Directors of all joint stock companies, including state enterprises. Steps are being taken to amend the Companies Act in order to establish the legal right of workers to such representation. This, of



course, is a very complicated matter and the amendment of the law will take a long time.

At a different level, proposals will be made to establish works councils in all undertakings of a certain size. The purpose of these Works Councils will be to provide machinery within the undertaking for participation by the workers in management decisions. In certain clearly defined areas, which have traditionally been regarded as so-called 'management prerogatives', decisions will only be taken with the participation of the Works Councils after the proposed law has been enacted.

I know that the first reaction to the proposals for workers' participation is going to be; but are workers ready for it? The most important question is: are the managers ready for it?

But let us for one moment pretend that the attitude of the workers will not also have to undergo an equally drastic change. To a large extent the new system of industrial relations will put the onus on the workers to discipline themselves. If they refuse to accept this responsibility, then they will destroy our economy and themselves with it. However, I have sufficient faith in my workers to believe that this will not happen. I am fully confident that they will rise to the occasion. The law will for the first time abolish the hated system of master and servant. For the first time workers and managers will be equal partners in industry. This means the coming of age of the workers will at last be legally recognised. From adults one expects adult behaviour.



In closing, I would like to say that no one should be misled into thinking that we do not mean these changes seriously. We are not experimenting with a few liberalising measures which may or may not work, and which can be withdrawn at will. Today we are taking a deliberate step into the future for our nation. There will be no going back. Our commitment to the restructuring of our society is fundamental and we mean that Humanism will not only be discussed but lived. The right of the people of Zambia to control their own destiny is not negotiable.

[This part of the President's speech also appears in the Industrial Relations Handbook, President's Citizenship College, Kabwe, 1976, p.1]

## APPENDIX B

[Note: The pledges produced below were adopted by a tripartite labour conference held in Livingstone on 7-8 April 1967. Nationalisation and threats of participation legislation later betrayed any confidence in the system of self-regulation advocated by the pledges]

### PLEDGE TO THE NATIONAL DEVELOPMENT PLAN

WE THE WORKERS, PLEDGE THAT-

we will put the interests of Zambia before our own interests, either as individuals or as members of trade unions

we will work hard to play our part in the National Development Plan

we will do a fair day's work on every working day and will strive to increase not only our own productivity but also the productivity of our fellow workers;

we will accept every opportunity we are given for education as workers and trade unionists and for industrial training;

we will pull together as workers of Zambia, from whatever part of the country we come from and wherever we may be working, and whether we are local or expatriate workers;

we will carry out the just instructions and orders of our supervisors and and employers and co-operate with them,

whether they are Zambian or expatriate, to ensure maximum levels of productivity;

we will abide by the terms of all agreements negotiated between our unions and our employers and observe the provisions of Zambia's labour legislation;

we use all our efforts to maintain industrial peace.

**WE THE EMPLOYERS, PLEDGE THAT-**

we will run our businesses in such a way as to promote the interests of Zambia and to ensure increasing levels of productivity through efficient management and close co-operation with with our employees;

we will provide the maximum possible job security to our workers in return for a fair day's work and increasing productivity;

we will continually examine our wage structure, conditions of service and social conditions of our workers to ensure that they are conducive to increasing productivity and healthy industrial relations;

we will Zambianise our undertakings as rapidly as possible and, to this end, will provide opportunities to our workers for industrial training;

we will improve by every means possible and with co-operation of the government and the trade unions, our communications with with our workers so that they appreciate the importance of their work to the success of the National development Plan;



we will strive to create healthy industrial relations and to this end we will co-operate with and encourage the development of trade unions and the formation of works committees;

we will abide by the terms of all agreements negotiated with unions and observe the provisions of Zambia's labour legislation;

we will remove all vestiges of racial discrimination in our undertakings and do our best to improve the racial attitudes of all employees so that there is understanding, tolerance, respect and good will at all times at work;

we will do our best to ensure that supervisors and managers in our employ, in the carrying out of their duties, respect the human dignity of the men working with or under them and will take firm action against any supervisor or worker who is racialistic, abusive or unjust.

Finally, we the workers and the employers jointly pledge ourselves to honour the code for Industrial Peace and the Code for Enhanced Productivity in Zambia adopted at this conference and to build in unity the great Zambia of the future.

**LIST OF ORGANISATIONS WHOSE REPRESENTATIVES SIGNED THE PLEDGE  
TO THE NATIONAL DEVELOPMENT PLAN**

**EMPLOYERS**

**Zambia Federation of Employers**

**Zambia Builders and Allied Trades Association**

**Zambia Industrial and Commercial Association**

**Livingstone African Traders association**

**Mining Companies**

**Rhodesia Railways**

**Zambia Association of Civil Engineering Contractors**

**Zambia Iron and Steel Employers Association**

**Zambia Motor Trade Association**

**Zambia-Tanzania Road Services**

**Zambia Tobacco Co-operative**

**Zambia Commercial Farmers' Bureau**

**WORKERS**

**Zambia Congress Trade Unions**

**Zambia Mine Workers' Union**

**Zambia Expatriate Mineworkers' Association**

**Zambia National Union of Teachers**

**Rhodesia Railway Workers' Union**

**Railway African Workers' Union**

**National Union Of Building and General Workers**

**National Union of Commercial and Industrial workers**

**National Union of Local authorities Union**

**National Union of Plantation and Agricultural workers**  
**National Union of Posts and Telecommunications Workers**  
**National Union of Public Services Workers**  
**Mines Local Staff Association**  
**Amalgamated Engineering Union**

**(Source: ILO, Basic Agreements and Joint Statements on Labour-  
Management Relations, Labour-Management Series no. 38,  
Geneva, 1971, pp.233-237)**



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